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ABSTRACT

This toolkit is designed to provide an understanding of the IDEA provisions related to parentally placed private school children with disabilities. It supports private and public school personnel, parents, policymakers, and students and offers descriptions of practices currently used by private and public school personnel nationwide to implement IDEA provisions related to parentally placed private school children with disabilities. The first section includes an introduction to and overview of the topic, noting general information-building practices (e.g., links to Web sites and descriptions of stakeholder practices). In some cases, a blackline master accompanies the information building practices. The toolkit is organized into sections that allow stakeholders to learn more about: how to locate children who may be affected by the IDEA provisions related to parentally placed private school children with disabilities; how to determine services for parentally placed private school children with disabilities; and what other state provisions may affect work with parentally placed private school children with disabilities. Each section includes an overview of the section topic, in-depth discussion of the topic, and information-building practices. Extensive appendices contain related material. (SM)

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Children with Disabilities Placed by Their Parents in Private Schools

An IDEA Practices Toolkit

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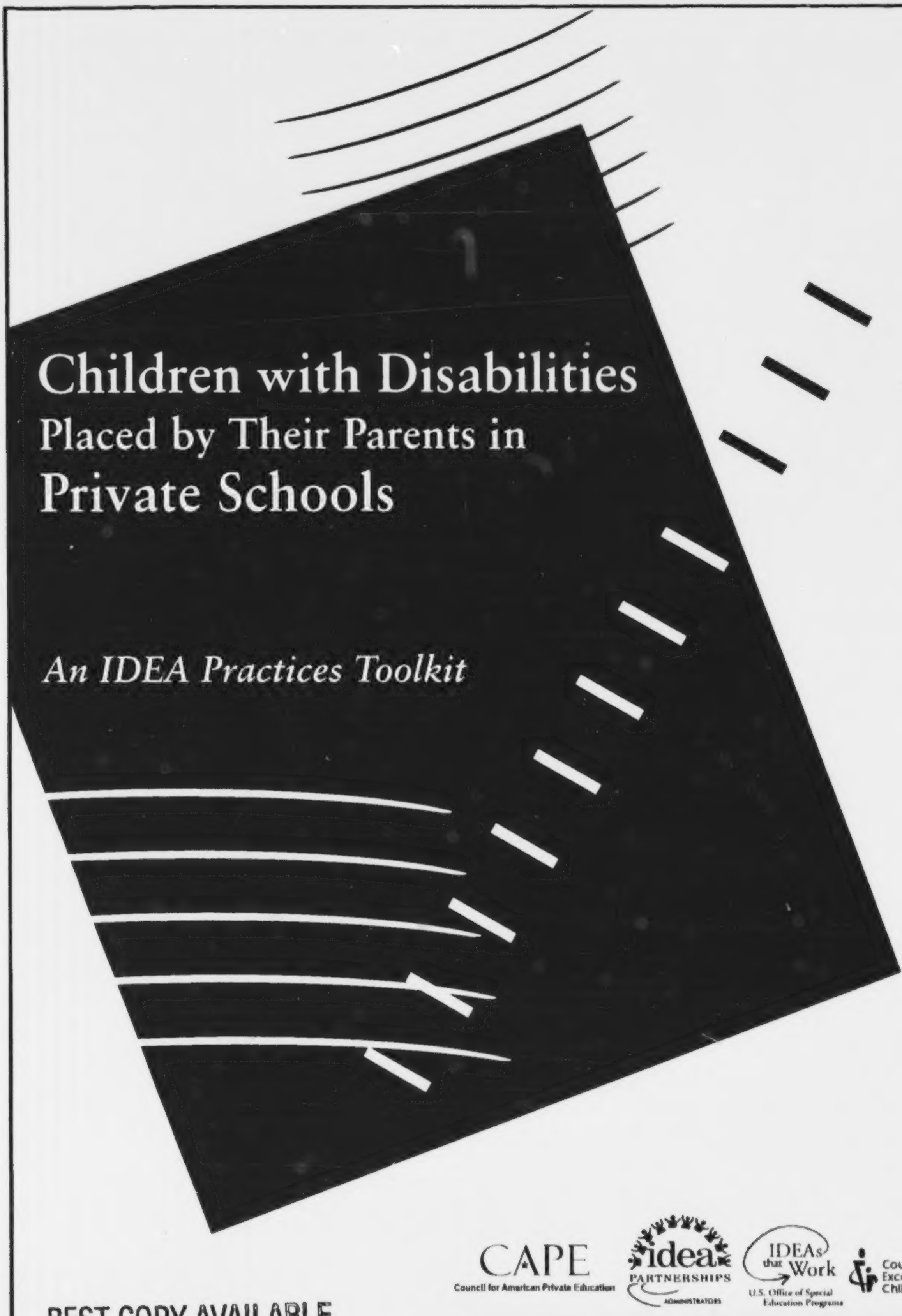
Advisory

When this toolkit went to press, the U.S. House of Representatives had approved legislation to reauthorize the Individuals With Disabilities Education Act and the Senate was taking up its own version of the legislation. The House bill included significant changes in provisions relating to IDEA services to children placed by their parents in private schools, and those changes or others may make their way into the final law. To keep this toolkit up to date, any changes in the law, regulations, and U.S. Department of Education guidance relating to services for parentally placed children in private schools will be posted on the following Web site: **http://www.capenet.org/IDEA.html**.



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[1] IDEA Local Implementation by Local Administrators Partnership

[2] Associations of Service Providers Implementing IDEA Reforms in Education Partnership, Families and Advocates Partnership for Education, The Policymaker Partnership

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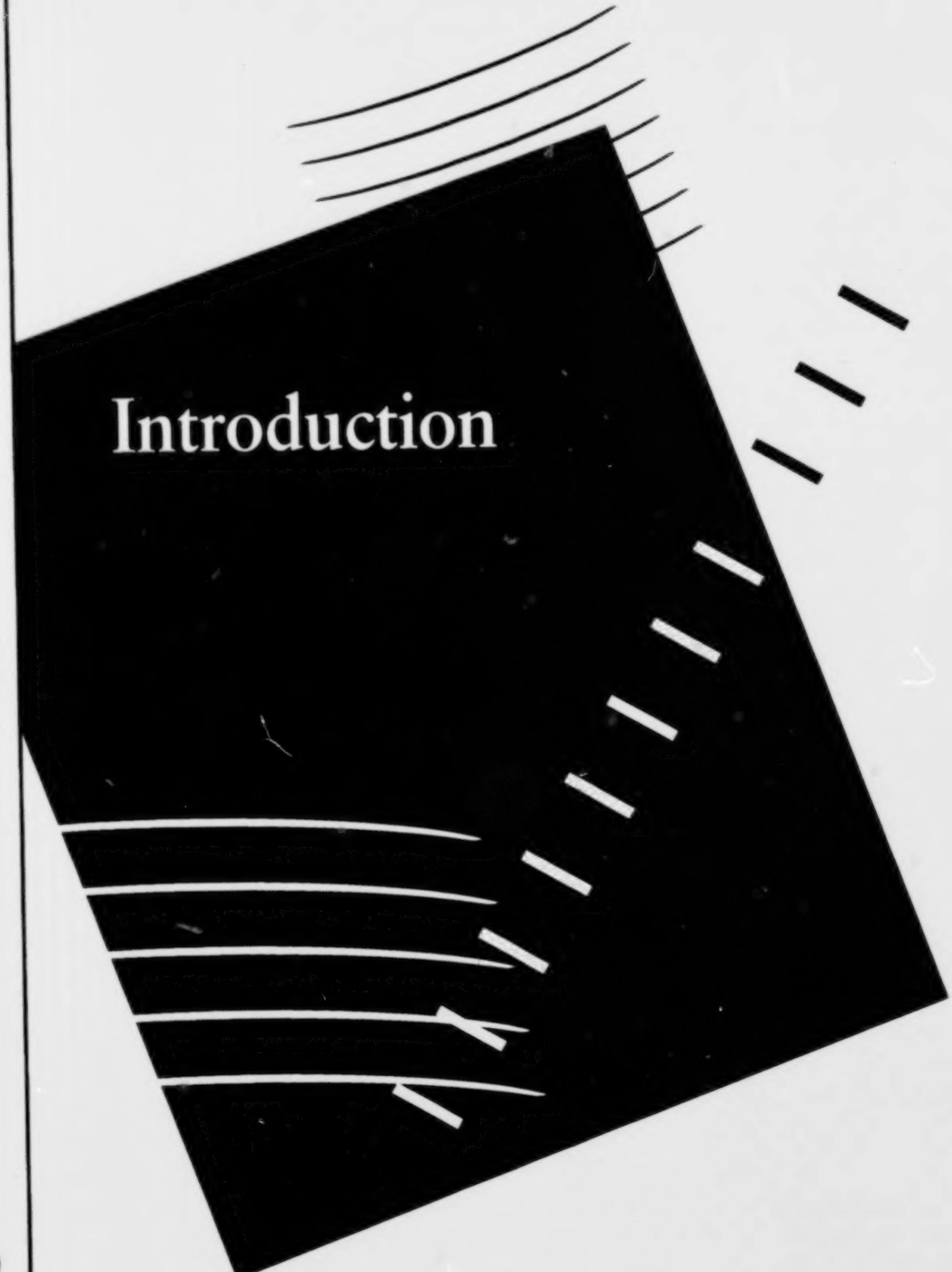
Introduction



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SECTION 1

Introduction

Growing up, Maria's parents both attended schools with a religious affiliation. In fact, they met at a school event their senior year of high school. They feel strongly that even though the special education services Maria receives in the public school are excellent, they want her also to have a strong religious foundation.

The first thing Arthur's parents noticed when they moved to their new home was that the schools were much larger and served more students than Arthur's previous school. Class sizes were almost double those to which Arthur was accustomed. A local private school was just the answer. Not only did it provide a low teacher-student ratio, but several of the classroom teachers were certified in learning disabilities and used the same approaches that Arthur's resource room teacher had found successful in helping him progress academically.

Yoseff recently immigrated to this country with his family. His mother is concerned for his safety, as he is very small, does not speak English well, and has borderline mental retardation. She wants him to attend a school with children from families from her homeland—at least until she is confident that he can function somewhat independently in his adopted country.

As these vignettes show, parents of children with disabilities cite many positive reasons for choosing to place their child in a private school. Indeed, the Office of Special Education Programs (OSEP) has stated (U.S. Department of Education, Office of Special Education Programs, 2000) that the right of parents to choose where their children should be educated, whether at public or private school, is extremely important. When parental placement in a private school occurs as a matter of choice and not when a free appropriate public education (FAPE) is at issue, the child's entitlements under the Individuals with Disabilities Education Act (IDEA) will differ from those he or she may have been afforded if enrolled in a public school.

IDEA Part B can provide benefits to eligible students with disabilities who are placed by their parents in private schools. School districts have certain obligations to parentally placed private school students with disabilities under IDEA Part B. Understanding these provisions helps stakeholders—private school personnel, parents, public school personnel, and students—to ensure that parentally placed private school children with disabilities receive the support provided them under IDEA.

Children with Disabilities Placed by Their Parents in Private Schools: An IDEA Practices Toolkit (hereafter often referred to as the toolkit) is designed to help key stakeholders—private school personnel, public school personnel, parents, policymakers, students, and other interested citizens—understand the provisions in IDEA that pertain to children with disabilities who are placed by their parents in private schools. The toolkit addresses only those children for whom a free appropriate public education under the IDEA from a public agency program or placement is not at issue for the parents. [See **Sidebar 1**, *Definitions*.]

To this end, the toolkit provides information and knowledge-building practices on the major applicable IDEA provisions that are considered by many private school organizations—such as the National Catholic Educational Association, National Association of Independent Schools, United States Conference of Catholic Bishops, Agudath Israel of America, Board of Jewish Education of Greater New York, Association of Christian Schools International, Lutheran Church Missouri Synod, Southern Baptist Association of Christian Schools, Solomon Schecter Day School Association—as particularly relevant to parentally placed private school children with disabilities. Topics featured in the toolkit include:

- **Participation in IDEA**. Provision is made for the participation of children with disabilities enrolled by their parents in private preschool, elementary, and secondary schools—consistent with their number and location in the state—in the program assisted or carried out under IDEA Part B by providing for such children special education and related services. 34 C.F.R. §§300.450-462.
- **Child Find**. Child Find refers to ongoing activities undertaken by state education agencies (SEAs) and local education agencies (LEAs) to locate, identify, and evaluate all children residing in the state who are suspected of having disabilities under IDEA Part B, so that a free appropriate public education can be made available to all eligible children. Activities are conducted to locate, identify, and evaluate children placed by their parents in private schools, including religious schools, who may need special education and related services. 34 C.F.R. §§300.121, 300.125 and 300.220.

Definitions

In determining school district responsibility for children with disabilities in private schools, generally such children are in one of three groups, and public agency responsibility will vary based on the group into which the children fall.

1. **Children with disabilities placed at private schools by their parents when FAPE from a public agency program or placement is not at issue**. These children, some of whom must be provided special education and related services consistent with their numbers and needs, have no individual entitlement to services under Part B. 34 C.F.R. §§300.403(a) and 300.450-300.462.

2. **Children with disabilities placed at a private school by their parents without the consent of or referral by the public agency because the parents believe that the public agency has not made FAPE available in a timely manner**. If a hearing officer or court agrees with the parent and finds that there has been a denial of FAPE and the private placement is appropriate, the parents may be able to obtain tuition reimbursement for part or all of the cost of their unilateral private school placement. 34 C.F.R. §300.403(c).

3. **Children with disabilities placed at private schools by public agencies as a means of providing special education and related services**. Specifically, if a public agency places or refers a child with a disability to a private school or facility for the purpose of providing FAPE to that child, the child must receive a program of special education and related services in conformance with an IEP at no cost to the parents. The child and his or her parents have all of the rights that they would have if the child were served by the public agency. 34 C.F.R. §300.401.

Sidebar 1

- **Expenditures**. A proportionate amount of the federal funds available under IDEA Part B is expended for services for parentally placed private school children with disabilities. 34 C.F.R. §300.453.
- **Service delivery**. Through consultation and in light of at least the amount of IDEA Part B funds the school district must spend in providing services to parentally placed private school students with disabilities, the school district and private school officials design the special education program for those students who have been identified to receive services. 34 C.F.R. §300.454(b).
- **Location of services**. Special education and related services may be provided to parentally placed private school children with disabilities on the premises of private, including religious, schools in a manner that does not violate the Establishment Clause of the First Amendment to the U.S. Constitution and is consistent with applicable state constitutions and laws. 34 C.F.R. §300.456.

[See **Appendix 1-A**, *IDEA Regulations: Parentally Placed Private School Children with Disabilities*, for the regulations verbatim.]

Throughout the provisions, reference is made to consultation—a term that is referenced, but not defined, in the IDEA Regulations. School districts must consult in timely and meaningful ways with appropriate representatives of parentally placed private school students with disabilities throughout various phases of the development and design of the school district's special education program for these students under IDEA Part B. Areas requiring consultation include:

- **Child Find**: Each LEA shall consult with appropriate representatives of private school children with disabilities on how to locate, identify, and evaluate private school children with disabilities. 34 C.F.R. §300.451(b).
- **Child Count**: Each LEA shall consult with representatives of private school children in deciding how to conduct the annual count of the number of private school children with disabilities. 34 C.F.R. §300.453(b)(i).
- **Service delivery**: Each LEA shall consult with appropriate representatives of private school children with disabilities to decide which children will receive services, what services will be provided, how and where the services will be provided, and how the services will be evaluated. 34 C.F.R. §300.454(b). No private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. 34 C.F.R. §300.454(a).
- **Services plan**: Each private school child with a disability who has been designated to receive special education and related services must have a services plan. The LEA initiates and conducts meetings to develop, review, and revise these services plans. The LEA is responsible for ensuring that a representative of the private school attends each meeting; if the representative is unable to attend, other methods to ensure his or her participation must be used (e.g., individual or conference tele-

phone calls). 34 C.F.R. §300.454(c)(1-2). [For more information on services plans, including how they differ from the individualized education program, see Section 3 of this toolkit.]

In carrying out the various consultations, the LEA must provide a genuine opportunity for appropriate representatives of private school students to express their views on these topics. **Sidebar 2,** ***Consultation Checklist***, can be used to track consultation requirements.

Overview of the Toolkit

An understanding of the IDEA provisions related to parentally placed private school children with disabilities can help to ensure that these children receive the benefits available to them under law. Consider the following examples:

- A public school administrator desires information about how colleagues in other parts of the nation are collaborating with private school representatives in Child Find activities to ensure that all district children are counted.
- A group of private school practitioners wishes to understand the responsibilities related to services plans so that members can make effective contributions when serving on the plan development team with public school colleagues and children's parents.
- A parent is considering private school placement and wants to become more knowledgeable about how her child with disabilities may receive services if attending a private school.
- A policymaker requires accurate information on IDEA expenditures for parentally placed private school children with disabilities before responding to a constituent's question.
- A staff developer is looking for ideas on how to facilitate collaboration between private school personnel, public school personnel, and parents.

In all cases, information about IDEA is essential.

Children with Disabilities Placed by Their Parents in Private Schools: An IDEA Practices Toolkit is designed to support stakeholders—private school personnel, public school personnel, parents, policymakers, students, and other concerned individuals—in familiarizing themselves with relevant provisions related to parentally placed private school children with disabilities. It provides tools and information to assist stakeholders in understanding the relevant IDEA provisions. In addition, it offers selected descriptions of practices currently being undertaken by private and public school personnel nationwide to implement IDEA provisions related to parentally placed private school children with disabilities.

Underlying the toolkit is the premise that collaboration among all major stakeholders—private school personnel, public school personnel, students, and parents—is essential. The toolkit promotes collaboration by encouraging all stakeholders to:

Consultation Checklist

School districts must consult in timely and meaningful ways with appropriate representatives of parentally placed private school students with disabilities throughout various phases of the development and design of the school district's special education program for these students under IDEA Part B. Use the following checklist to track consultation and participants. Use the Results column to note decisions agreed upon.

Activity	Participants	Date	Results
Child Find How to locate, identify, and evaluate private school children with disabilities.			
Child Count How to conduct the annual count of the number of private school children with disabilities.			
Service Delivery Decide which children will receive services, what services will be provided, how and where the services will be provided, and how the services will be evaluated.			
Services Plan Develop, review, and revise a services plan for each private school child with a disability who has been designated to receive special education and related services.			

Sidebar 2

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- Understand the IDEA provisions related to parentally placed private school children with disabilities.
- Become knowledgeable about practices that enhance collaboration among private school personnel, public school personnel, and parents.
- Share ideas for improving results for children with disabilities who are placed by their parents in private schools.

To this end, the information contained in the toolkit should be shared with other stakeholders. All stakeholders should know about IDEA to ensure that children with disabilities benefit.

Organization of the Toolkit

Children with Disabilities Placed by Their Parents in Private Schools: An IDEA Practices Toolkit is organized into sections. This first section is an introduction and provides an overview of the topic.

General information-building practices are found at the end of this introductory section. These practices are intended to help orient stakeholders to the topic in general. Information-building practices may take several forms, including:

- Tools, such as forms or samples of documents that public and/or private school personnel have found useful for various tasks.
- Links to web sites and other resources.
- Descriptions of stakeholder practices.
- Activities and conversation starters that may be used for both individual study and group professional development purposes.

In some cases, a blackline master may accompany these information-building practices (e.g., activity sheet, transparency master, form). These blackline masters are included in the Appendix at the end of the section.

Following this introduction, the toolkit is organized in sections that allow stakeholders to learn more in-depth information about selected topics. These sections offer information related to one of the following questions:

- **Section 2**: How do we locate children who may be affected by the IDEA provisions related to parentally placed private school children with disabilities? This section includes information on Child Find, Child Count, and expenditures.
- **Section 3**: How do we determine services for parentally placed private school children with disabilities? This section includes information on service delivery, services plans, and location of services.
- **Section 4**: What other provisions affect our work with parentally placed private school children with disabilities? This section includes information on locating individual state regulations.

Each of these sections is organized similarly and includes:

- **Overview of the section topic**. A brief summary of the topic is presented. Information used in this part is drawn from one of several sources: *IDEA Regulations*; Office of Non-Public Education memorandum, ***Individuals with Disabilities Education Act (IDEA) 1997/Services to Parentally Placed Private School Students with Disabilities*** (available on **http: www.ed.gov/offices/OIIA/NonPublic/federal/ idea.html**); and/or ***Parentally Placed Students with Disabilities*** (available on the ILIAD/ASPIIRE IDEA Partnership Projects web site at **www.ideapractices.org**).

- **In-depth discussion of the topic**. The relevant sections of the OSEP memorandum, ***Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools***, are provided verbatim. The OSEP memorandum restates and consolidates guidance that the Department has provided regarding the nature and extent of school districts' obligations to parentally placed private school children with disabilities under IDEA Part B in accordance with 34 C.F.R. §§300.450-300.462. [See **Sidebar 3**, *Matrix of OSEP Q&As by Topic*]
- **Information-building practices**. Following the OSEP questions and answers are a series of tools related to the topic. Tools may include forms or samples of documents that public and/or private school personnel have found useful for various tasks, linkages to web sites and other resources, and descriptions of stakeholder practices. In addition, activities and conversation starters are included that may be used for both individual study and group professional development purposes. In some cases, a blackline master may accompany an information-building practice (e.g., activity sheet, transparency master, form). These blackline masters are found at the end of each section.

Users are encouraged first to familiarize themselves thoroughly with information in the Introduction, as it provides a foundation for using the information contained in Sections 2 through 4.

Information-Building Practices: Introduction

The following practices are offered to assist stakeholders in building general knowledge about IDEA and parentally placed private school children with disabilities. In all cases, the practices presented are only suggestions and/or illustrations of what other stakeholders have found useful in supporting parentally placed private school children with disabilities.

The practices included in this introductory section address general information needs, such as becoming familiar with the relevant IDEA provisions, locating reliable resources, and facilitating consultation through ongoing communication. Practices are organized as follows:

Understanding the IDEA Provisions

- Practice 1-1: Review the IDEA Regulations.
- Practice 1-2: Familiarize Yourself with IDEA Terminology.

Matrix of OSEP Q&As by Topic

	Toolkit Section 2		Toolkit Section 3	
Question	**Child Find**	**Expenditures**	**Service Delivery**	**Location**
1	X			
2	X	X		
3	X			
4	X			
5	X			
6	X			
7	X			
8	X		X	X
9	X			
10	X	X		
11	X			X
12	X			
13	X			X
14	X	X		
15	X	X		
16	X	X		
17		X		
18		X	X	
19		X		
20	X	X		
21		X		X
22			X	
23			X	X
24	X	X	X	X
25			X	
26			X	
27		X	X	
28			X	
29			X	
30			X	
31			X	
32			X	
33			X	X
34			X	
35			X	X
36			X	X
37			X	X
38			X	X
39			X	
40	X		X	X
41			X	
42			X	
43				
44			X	X
45			X	

Sidebar 3

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- Practice 1-3: Review the OSEP Memorandum (00-14) Cover Letter.

Locating Additional Resources

- Practice 1-4: Check Out Organizational Resources.
- Practice 1-5: Read *Parentally-Placed Children with Disabilities.*

Enhancing Consultation Through Ongoing Communication

- Practice 1-6: Do You Have a Brochure for Communicating Information?
- Practice 1-7: Does Your Organization Have a Web Site?
- Practice 1-8: Preparing a Presentation.
- Practice 1-9: Creating an Open Channel of Communication.
- Practice 1-10: Suggestions for Contacting Private School Representatives.
- Practice 1-11: Suggestions for Contacting Public Schools.
- Practice 1-12: Developing Technical Assistance Documents.
- Practice 1-13: Create an Action Plan to Improve Consultation and Collaboration.
- Practice 1-14: Find Out About Your State Advisory Panel.

Practice 1-1 *Review the IDEA Regulations*

Throughout ***Children with Disabilities Placed by Their Parents in Private Schools: An IDEA Practices Toolkit,*** mention is made of IDEA and its 1999 Regulations. Regulations are written to provide guidance on implementing the law and are considered requirements. When explaining the regulations, specific sections are referenced with the symbol "§". This means that you may go to the referenced section in the Code of Federal Regulations (CFR) and find the exact words used in the regulation.

Familiarize yourself with the IDEA Regulations. The IDEA Regulations (1999) featured in this package are shown in **Appendix 1-A**, *IDEA Regulations: Parentally Placed Private School Children with Disabilities*. However, they also are available from any one of the following sources:

- **ILIAD/ASPIIRE web site**. The law and final regulations are available for download or search at **www.ideapractices.org**.
- ***Discover IDEA CD 2002***. The law and final regulations are available in electronic format, complete with search mechanisms. Note: The law also is found on the previous version (2000) of the CD. Available from: Council for Exceptional Children, 1110 N. Glebe Road, Arlington, VA 22201, 888-232-7733 (toll free), 866-915-5000 (TTY toll free), **www.cec.sped.org**. Take advantage of the enhanced search opportunities included on the CD (e.g., Senate Committee discussion).
- **U.S. Department of Education web site**. Download or search the law and final regulations at **http://www.ed.gov/offices/OSERS/OSEP/**.

Note: States may have statutes or regulations that provide additional guidance on parentally placed private school students with disabilities. For more information, see Section 4 of the toolkit, *State Provisions Affecting Parentally Placed Private School Students with Disabilities*.

Practice 1-2

Familiarize Yourself with IDEA Terminology

A number of acronyms and terms are used throughout the toolkit. In most cases these are acronyms and terms found in the law and therefore, legal definitions are in order. Although care has been taken to define these in each section, users are encouraged to review:

- IDEA Partnership Projects and colleagues have produced **Discover IDEA CD 2002** (note: the previous 2000 version also contains this information). The CD-ROM contains a glossary of definitions and acronyms used in the IDEA Final Regulations. Available from: Council for Exceptional Children, 1110 N. Glebe Road, Arlington, VA 22201, 888-232-7733 (toll free), 866-915-5000 (TTY toll free), **www.cec.sped.org**.
- Families and Advocates Partnership for Education (FAPE) has produced three *Facts-on-Hand* documents that may supplement the CD-ROM glossary: "Acronyms and Special Education," "Acronyms and Agencies," and "Acronyms and the Law." These documents are available on the FAPE web site at **www.fape.org**.

Practice 1-3

Review the OSEP Memorandum Cover Letter

Brief Description: The U.S. Department of Education, Office of Special Education Programs (OSEP), prepared the memorandum, ***Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools*** (OSEP:00-14). The memorandum was written in response to requests from the field for a document that restates and consolidates guidance that the Department had provided regarding the nature and extent of school districts' obligations to parentally placed private school children with disabilities under IDEA Part B. OSEP used the memorandum to introduce 45 questions and answers (which are presented in this toolkit).

Available: The memorandum may be downloaded from the ILIAD/ASPIIRE web site at **www.ideapractices.org**. Click on Professional Development Resources and type in: *Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools*. Or, go to the ILIAD resource, ***Parentally-Placed Students with Disabilities***. The memorandum is found in the Appendix of this guide. [*Note*: See Practice 5 in this section for more information on this guide.] The memorandum also is available on the OSEP web site at **http://www.ed.gov/offices/OSERS/OSEP/Products/omip.html**.

Possible Uses: Familiarize yourself with the memorandum. Note the following:

- How OSEP defines different groups of students with disabilities attending private schools. [**Sidebar 1**, *Definitions*, summarizes this information.]
- How OSEP summarizes the major applicable provisions in IDEA that are relevant to parentally placed private school children with disabilities. If you are working with a group, consider using this summary in your overview. A blackline master is included in **Appendix 1-B**, *Summary of Applicable IDEA Provisions*.

Practice 1-4

Check Out Organizational Resources

Become familiar with the organizations and groups that promote understanding of the IDEA provisions related to parentally placed private school children with disabilities. The organizations that follow have web sites, materials, and linkages to other groups that may prove useful.

Individuals should visit the web sites of each of these groups and bookmark them for future reference. If you are working as a team or group, consider giving one of the resources to each team member or small group. Ask participants to visit the site and report back to the group on the following:

- Purpose and/or mission of the organization.
- Range or type of resources.
- Specific materials related to parentally placed private school children with disabilities.
- Suggestions for further study.

Selected resources follow.

Council for American Private Education (CAPE)

www.capenet.org

Housed At: 13017 Wisteria Drive, #457, Germantown, MD 20874, 301-916-8460, 301-916-8485 (FAX), cape@capenet.org (email).

Brief Description: CAPE is a coalition of national organizations and state affiliates serving elementary and secondary schools. Founded in 1971 to provide a coherent voice for private education, CAPE is dedicated to fostering communication and cooperation within the private school community and with the public sector to improve the quality of education for all of the nation's children.

IDEA Local Implementation by Local Administrators Partnership (ILIAD)

www.ideapractices.org

Housed At: Council for Exceptional Children, 1110 N. Glebe Road, Suite 300, Arlington, VA 22201-5704, 877-CEC-IDEA (toll free), 866-915-5000 (TTY toll free), 703-264-1637 (FAX).

Brief Description: ILIAD is part of the IDEA Partnerships Project, which is funded by the U.S. Department of Education. The mission of the IDEA Partnerships Project is to support stakeholders—teachers, service providers, administrators, policymakers, families, and others—by delivering a common message about IDEA.

ILIAD supports associations of educational leaders in developing knowledge about IDEA. On the ILIAD/ASPIIRE web site at **www.ideapractices.org**, you can access:

- **IDEA Law**. Here you will find the IDEA Regulations and relevant court cases. A search mechanism allows you to go directly to a regulation of your choice.
- **Professional Development Resources**. Here you will find a selection of materials and resources that contain information about the IDEA. Many of the resources are downloadable. Conduct a search of all resources related to parentally placed private school children with disabilities.

U.S. Department of Education, Office of Special Education Programs (OSEP)

http://www.ed.gov/offices/OSERS/OSEP/

Housed At: U.S. Department of Education, 330 C Street, S.W., Room 3086, Washington, DC 20202, 202-205-5507, 202-205-5637 (TTY).

Brief Description: OSEP has primary responsibility for administering programs and projects relating to the IDEA for children, youth, and adults with disabilities, from birth through age 21. To this end, the OSEP web site provides information and resources about IDEA, including:

- **IDEA Regulations**: Here you can download a copy of the regulations.
- **Online publications**: Here you will find a variety of OSEP documents that may be downloaded. Look for the *OSEP Memorandum (OSEP-00-14)*, ***Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools***.

U.S. Department of Education, Office of Non-Public Education

http://www.ed.gov/offices/OIIA/NonPublic/

Housed At: U.S. Department of Education, Office of Non-Public Education, 400 Maryland Avenue, S.W., Washington, DC 20202-3600, 202-401-1365, 202-401-1368 (FAX), **OIIANon-PublicEducation@ed.gov** (email).

Brief Description: The roles and activities of the Office of Non-Public Education (ONPE) fall into two major categories:

- **Leadership**: Representing the interests, activities, and needs of the private elementary and secondary school community at the U.S. Department of Education.
- **Outreach**: Consulting with the private school community on the participation of students and teachers in programs and initiatives of the U.S. Department of Education.

Practice 1-5 *Read* Parentally-Placed Students with Disabilities

Brief Description: The brief guide documents the various judicial cases that helped to shape the 1997

Reauthorization of IDEA and its accompanying regulations. The guide was written by Art Cernosia, an attorney and educational consultant for the IDEA Local Implementation by Local Administrators Partnership (ILIAD) Project and the Urban Special Education Leadership Collaborative, an ILIAD partnership member. The document was reviewed by OSEP for consistency with IDEA, but does not necessarily reflect the views or policies of the U.S. Department of Education. The guide provides an overview of IDEA, its regulations, and relevant case law regarding parentally placed students with disabilities in private schools. It includes the OSEP memorandum, ***Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools*** (OSEP 00-14), in its entirety.

Available: The text from this guide is found in the last section of the toolkit, *Special Insert*. The guide also may be downloaded from the ILIAD/ASPIIRE web site at **www.ideapractices.org**. Click on Professional Development Resources and type in ***Parentally-Placed Students with Disabilities***.

Possible Uses: Familiarize yourself with the guide. Consider the following activities:

- **Read through the summary of judicial decisions leading up to and immediately following the 1997 Reauthorization of IDEA**. To what extent are these decisions reflected in the current IDEA Regulations? If working with a group, consider using the activity sheet, *Match the Decision with the Regulation* (see **Appendix 1-C**) after presenting a brief presentation on the judicial decisions related to parentally placed private school children with disabilities and IDEA. Make **Appendix 1-A**, *IDEA Regulations: Parentally Placed Private School Children with Disabilities*, available to participants. In addition to providing a review of judicial cases, the activity also provides participants with practice using the IDEA Regulations.
- **Conduct a jigsaw activity focused on reviewing the IDEA provisions related to parentally placed private school children with disabilities**. The guide provides a summary of current IDEA requirements in the areas of: Child Find, service determination, services plans, location of services, reevaluations, due process rights, home-schooled students, preschool children, and services on-site of a parochial school (pages 9 through 12). Ask participants to form small groups. Prepare copies of the pages and ask participants in each group to select 2 of the 9 areas (have all members read the ninth area). Each member reads his or her sections and then shares the information with the entire small group.
- **Discuss the author's conclusions**. The guide concludes with a statement that further clarification of the law is anticipated. Reflect on the IDEA provisions and ask: "What additional information and/or guidance do you think would be helpful?" "What issues should be addressed?" and "What is missing from the law?" If you are working with a group, conduct a group discussion. Give participants several minutes to reflect on the questions and their thoughts before beginning the discussion. As a variation, review each topic area in the law, and ask, "Is the law adequate on this topic and if not, how might we still incorporate the intent of it in our programs?"

Practice 1-6

Do You Have a Brochure for Communicating Information?

Communication between all stakeholders helps to ensure that students with disabilities placed by their parents in private schools benefit under IDEA. The first step is to ensure that information is available to all stakeholders.

The Office of Non-Public Education (ONPE) has produced a brochure that has been reviewed by OSEP for consistency with IDEA (but does not necessarily reflect the views or policies of the U.S. Department of Education). It is available on the ONPE web site at **http://www.ed.gov/offices/OIIA/NonPublic/federal/idea.html**. It also is reproduced in **Appendix 1-D**, *Individuals with Disabilities Education Act (IDEA) 1997: Services to Parentally Placed Private School Students with Disabilities*. Read through the brochure. Consider the following:

- **Develop a dissemination plan**. How might you disseminate this brochure or promote the availability of it to constituents? Where in the community might you put copies of the brochure? At what meetings might the brochure be distributed?
- **Prepare a cover letter**. If sending the brochure to constituents, do you need a cover letter? What might be included in the cover letter?

- **Create a format**. Would your constituents prefer the brochure to be presented in a special format? If so, what suggestions do you have for adding graphic treatment?

If working with a planning team, consider drafting your own, personalized brochure. Include information on local contacts, upcoming meetings, description of services, etc.

Practice 1-7 Does Your Organization Have a Web Site?

Many organizations communicate with their constituents and others through the Internet. If your organization has a web site, does it include information related to parentally placed private school children with disabilities? If your organization does not have information on its web site, consider adding it!

To get started, take a look at how other organizations have used their web sites to communicate information on parentally placed private school children with disabilities. For example, visit:

- San Juan Unified School District web site at **www.sanjuan.edu**. Note how the district explains the special education services it provides to parentally placed private school students.
- National Catholic Educational Association web site at **www.ncea.org/publicpolicy/federalprograms/idea.asp**. Note how the organization identifies the different areas being discussed as issues of concern to its constituents. This improves readability and helps organize the information.
- United States Conference of Catholic Bishops web site at **www.usccb.org**.

Next, consider the content you will include, such as:

- Information on the regulations. Consider linking to the ONPE brochure (featured in Practice 1-6 and found in **Appendix 1-D**), the OSEP memorandum ***Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools*** (OSEP 00-14) (featured in Practice 1-4), and/or the relevant IDEA Regulations. In addition, the ILIAD/ASPIIRE web site has an excellent two-page fact sheet—***Parentally Placed Children in Private Schools***—on the regulations at **www.ideapractices.org**.
- District policies and procedures on such requirements as Child Find, provision of services, and location of services.
- Upcoming meetings to which stakeholders are invited (e.g., parents, public school personnel, private school personnel).
- Contact people for additional information.
- Other information, such as definitions and descriptions of special education services (e.g., speech/language services).

Make a list of the information you think should be included and share it with the appropriate people.

If working in a group, consider having participants form small groups and design information for a web site on parentally placed private school students with disabilities. Make available either the Internet or downloaded examples of the sites for their use. Encourage participants to recommend ways to personalize the site for their constituents.

Practice 1-8 Preparing a Presentation

Opportunities may arise in which you are asked to share information about parentally placed private school children with disabilities to groups (e.g., Back-to-School Nights and open houses, staff meetings, planning councils, university courses, workshops, conferences, etc.). If you are called upon to make a presentation, the following information may be useful.

Maureen Dowling of the Office of Non-Public Education (ONPE) has prepared a set of slides she uses when presenting an overview of parentally placed private school students with disabilities and IDEA. Her PowerPoint presentation is available on the ONPE web site at **www.ed.gov/offices/OIIA/NonPublic**. For your convenience, the text of her presentation is found in **Appendix 1-E**, *An Overview of Parentally Placed Private School Children with Disabilities and IDEA*.

Review the sample presentation. Consider how you might tailor the presentation for your own audience.

For example:

- Add a slide that lets people know how to contact you and selected others.
- Add a slide that specifies how the particular activity is carried out in your local district.
- Add a slide that refers people to additional information (e.g., the school district web site, the ILIAD/ASPIIRE web site at **www.ideapractices.org**, the CAPE web site at **www.capenet.org**, etc.).

After reviewing the content, plan an agenda for the presentation. Depending on the time allotted for the meeting, you may wish to:

A) **Include an introductory ice-breaker activity**. These activities activate the participants' prior knowledge of the topic and allow them to introduce themselves to each other. The *True or False?* activity found in **Appendix 1-F** is an example of an ice-breaker activity. Distribute the test to participants and ask them to complete it independently. Allow about 5 minutes. Next, have them form small groups of three to four members and compare answers. Allow time for introductions and discussion (about 10 minutes). Reconvene the large group and review answers. Ask for a show of hands (true or false) for each item before sharing the correct answer.

Answer key:

(1) T See 34 C.F.R. §§300.121, 300.125, 300.220, and 300.451.

(2) T See 34 C.F.R. §300.457.

(3) T See 34 C.F.R. §300.453.

(4) T See 34 C.F.R. §300.452 and 300.453.

(5) T See 34 C.F.R. §300.451.

(6) T See 34 C.F.R. §§300.452, 300.454, and 300.455.

(7) F See 34 C.F.R. §300.456.

(8) T See 34 C.F.R. §§300.454 and 300.455.

(9) T See 34 C.F.R §300.454.

(10) F See 34 C.F.R. §300.454.

B) **Include an online activity**. If computers with Internet access are available, demonstrate how to locate information such as that found on the ILIAD/ASPIIRE web site (**www.ideapractices.org**) and CAPE web site (**www.capenet.org**). Or install the **Discover IDEA CD 2002** (or 2000) (see Practice 1-1 for ordering information) and conduct a tour of the IDEA Regulations.

C) **Encourage participants to note their reactions throughout the session**. At key times (e.g., before the lunch break, at the end of the session), invite participants to review their reactions and reflect on what they have learned. Ask them to share any questions they may have that are still unanswered.

D) **Provide ample opportunity for questions and answers**. Sometimes, participants may be hesitant to ask questions, especially if they are in a group with people whom they do not know. Facilitate the process by introducing techniques such as having them write a "burning question" that must be answered on an index card. Collect the cards and provide answers. This technique also enables you to reframe the question for relevance to the group.

E) **Prepare handouts**. You may wish to make a photocopy of your transparencies for participants. Or, distribute a brochure such as the one featured in Practice 1-6.

F) **Make arrangements for refreshments and informal introductions**. Have supplies on hand (e.g., name badges, markers, flip chart paper, overhead projector, masking tape).

Practice 1-9

Creating an Open Channel of Communication

David Cross, Team Leader in Montgomery County Maryland Public Schools, made the following comment:

> *I feel we (public school system) have a productive working relationship with the private schools and parents in our jurisdiction. This relationship has been fostered by all parties approaching the wide variety of issues raised with an open mind and the intention of problem solving for the ultimate goal of providing for the needs of children. I have found that the key to success is having an open channel of communication between private schools, parents, and the public school system.*

How do stakeholders create an open channel of communication? Take a few minutes and reflect on your current situation. What is working to support open communication and collaboration? What is hindering open communication? The activity sheet, *How Do We Make This Happen?* in **Appendix 1-G** can be used to record your thoughts. After making your list, select several things you can do to improve communication.

If you are working with a group, conduct a brainstorming activity. Using a whip technique—start at one side of the room, call on each individual for a response, and continue until everyone has had an opportunity to comment—pose the following questions:

- What things interfere with or hinder open communication among stakeholders?
- What things support open communication and collaboration among stakeholders?

Record participants' answers on flip chart paper or on an overhead transparency. Review the lists. Ask participants to comment on the items (e.g., share personal experiences, comment on the feasibility). Ask participants to form small groups. Their challenge: Select one of the brainstormed items and develop an action plan that details practical steps and actions for implementing the idea. Provide flip chart paper for recording their plans. Allow 30 minutes. Reconvene the large group. Ask groups to post their plans and discuss.

Practice 1-10

Suggestions for Contacting Private School Representatives

In some cases, public school personnel will have had few and/or limited experiences interacting with private school representatives. Where does one start?

The *Tips for Contacting Private School Representatives* in **Appendix 1-H** offers suggestions for getting started and building a positive relationship. Review the suggestions and consider adding your own to the list! If you are working with a group, pose the following challenge:

> *You have just been assigned the responsibility of coordinating IDEA consultation activities with private school representatives. What steps will you take to get started?*

Ask participants to respond to the challenge. Depending on your preference, this may be done as a large group, or participants can begin their work in small groups of four members and then share their findings with the larger group. Record their ideas. As a variation, you may focus participants' work by asking them to organize their ideas according to the following tasks:

- How to locate private school representatives.
- How to make contact once you have identified the appropriate individuals.
- How to share information in an ongoing way.

Practice 1-11

Suggestions for Contacting Public School Representatives

For a variety of reasons—the least of which is that public school personnel may not know who to contact—a particular private school may not be contacted by the public school district. Private school personnel should not wait to be contacted by the public school district officials. They can take the initiative and contact the public school district office directly. Where does one start?

First, if your private school is part of a larger system of schools (e.g., Catholic Diocese, Greater Jewish Board of Education, etc.), contact your central office that handles issues related to students with disabilities. Find out if your system is participating with the public school system. If so, ask to be included in future activities. If not, share information about why participation is important to supporting achievement for parentally placed private school students with disabilities.

If your private school is not part of a larger system, then one approach is to send a letter of introduction to the public school person in charge of special education (e.g., the special education director, the assistant superintendent for special education services). If you do not know who this individual is, call the school district and ask for the main special education office.

Consider including the following information in the letter:

- Introduce yourself—who you are and why you are writing.
- Reference the law.
- State the benefits of collaboration.
- Explain your interest in pursuing contact.

- Suggest a meeting to get acquainted. Ask to be put on the school district mailing list.
- Describe how you plan to follow up on the letter (e.g., a phone call in a week).
- Provide contact information.

Include your business card and a flyer from your school, if available. In addition, consider including the following information:

- Private school calendar. Include starting, dismissal, and lunch times, along with holidays.
- Prereferral process used by your school to identify children with learning difficulties. Let the public school personnel know your process for involving parents, evaluating student performance, and making accommodations.

The activity sheet, *Sample Letter of Introduction*, found in **Appendix 1-I** presents an illustration. Review the letter, noting how the author requested contact. Think about ways you might improve the letter or tailor it to your own situation.

If working in a group, ask participants to review the letter in **Appendix 1-I** with a partner. Encourage participants to share their suggestions for enhancing it or tailoring it to their own constituents.

As a variation, have participants working in small groups draft a letter. Ask them to keep the earlier suggestions in mind when drafting their letters. Allow 30 minutes. Collect letters and distribute them to different groups. Ask participants to read the letters and respond as if they were receiving them for the first time. Pose these questions:

- What is your overall reaction?
- How do you plan to respond, if at all?
- What is your impression of the person who wrote the letter?

Reconvene the large group and ask participants to share their comments. Record suggestions on flip chart paper or a blank transparency.

Practice 1-12 *Developing Technical Assistance Documents*

Increasingly, school districts are finding it useful to record guidelines related to parentally placed private school children with disabilities that have been established for the school year. These technical assistance documents provide stakeholders—public school personnel, private school personnel, and parents—with specific information regarding the school district's obligations.

The content included in technical assistance documents varies from school district to school district. For example, the Portland (OR) Public Schools included in its 2001 technical assistance document the following items:

- A side-by-side listing of Oregon state law and Portland Public School policies and procedures that implement the law.
- Guidelines the school district follows for Child Find, Child Count, students served, specific services provided, services plans, evaluation of services, educational materials for students who are blind, and consultation and meetings with private school staff.
- Procedures and forms for referral to special education for students placed by their parents in private schools.
- Roster of private schools, including information regarding home school, grades served, phone number, address, and administrator's name.
- Services plan planning forms, including the plan and services plan log.

Similarly, Arlington (VA) Public Schools included the following information in its technical assistance document:

- Statement of obligations.
- Procedures for developing a services plan, including evaluation, eligibility, development process, and location of services.
- Procedures for initiating a services plan.
- Forms, including parent notification of an IEP/services plan meeting, and blank services plan.

Check to see if your local school district has a technical assistance document. If so, request a copy. If it does not, suggest that it produce one.

Review activity. Go to the Portland (OR) Public Schools

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web site at **www.pps.k12.or.us** and locate the district's technical assistance document on parentally placed private school children. Reflect on the following questions:

- How is the information presented? Is it easy to understand and use? If you were preparing the information, would you make any changes to aid readability and usability?
- Is the information comprehensive? If you were preparing the information, what other information might be included (or deleted)?
- What are the benefits of having a technical assistance document on the web?

Practice 1-13 Create an Action Plan to Improve Consultation and Collaboration

Consultation is an important element in implementing the IDEA provisions. The statute defines the specific activities in which stakeholders must consult. It also indicates certain parameters for consultation, including:

- **Timeliness and meaningfulness**. Each LEA shall consult in a timely and meaningful way, with appropriate representatives of private school children with disabilities. 34 C.F.R. §300.454(b). The consultation required must occur before the LEA makes any decision that affects the opportunities of private school children with disabilities to participate in services. 34 C.F.R. §300.454(b)(3).
- **Genuine opportunity**. Each LEA shall give appropriate representatives of private school children with disabilities a genuine opportunity to express their views regarding each matter that is subject to consultation requirements. 34 C.F.R. §300.454(b)(2).
- **Steps to ensure participation**. The LEA shall ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the private school, including individual or conference telephone calls. 34 C.F.R. §300454(c)2).

Each of these features, if implemented effectively, can enhance collaboration between all stakeholders—private school representatives, parents, and public school personnel.

Think about the terms: timely, meaningful, and genuine opportunity to express their views. What do these terms mean to you? [*Note:* The activity sheet, *What Do These Terms Mean To You?* in **Appendix 1-J** can be used for recording purposes.] Review your definitions. Do you believe others share your beliefs? If you are working independently, check out your thoughts with a colleague.

If you are working with a group, consider the following activity to explore terms. Ask participants to complete the activity sheet, *What Do These Terms Mean To You?* in **Appendix 1-J** independently. Have participants form small groups of four members and share their responses. Ask them to explore similarities and differences in beliefs.

As a variation, distribute three index cards to each participant. Ask participants to define each term on a separate index card. Collect the cards. Ask participants to form small groups and distribute the cards to each group. The group task: read each card and discuss how the author's beliefs agree or disagree with your own. Wrap up the activity by asking participants to reflect on whether people are more alike or different in their beliefs. Use this as a springboard to thinking about different ways to implement these features for various stakeholder groups.

Once you have explored your own definitions, you are ready to generate ideas for implementing the concepts. The activity sheet, *Developing an Action Plan to Enhance Collaboration* in **Appendix 1-K** can be used to focus your and/or team members' ideas. If working with a group, allow ample time for group members to brainstorm and discuss ideas.

As an extension activity, ask participants to check out the ideas generated in each area with private school colleagues. Or, have participants review their responses in a different role (e.g., if they are private school staff members, then review the ideas as if they were public school staff members). Pose this question, "Do you think different stakeholders would list the same ideas?"

Practice 1-14 Find Out About Your State Advisory Panel

How can representatives of parentally placed private school children with disabilities, including parents of these children, have input into OSEP's reviews of states as part of its continuing improvement monitoring process?

OSEP is responsible for oversight of the implementation of IDEA. OSEP's current monitoring process strongly encourages states to work with representatives of the various communities that are involved in the implementation of IDEA, including parents and private schools.

As part of the monitoring process, each state establishes a steering committee that helps the SEA conduct a self-assessment of the state's services for children with disabilities and provides input to OSEP. This committee may, at the state's discretion, include representatives of parentally placed private school children with disabilities.

Further, each state advisory panel on the education of children with disabilities must include representatives of parentally placed private school children with disabilities. Among the functions of this panel are to advise the SEA in developing corrective action plans—currently called State Improvement Plans—to address findings identified in federal monitoring reports under Part B of the Act.

Organizations or individuals that have specific questions or concerns about services for parentally placed private school children with disabilities in their state should first contact their local school district or State Department of Education special education division. OSEP Part B state contacts can be found on the OSEP web page at **www.ed.gov/offices/OSERS/OSEP/Monitoring/state_contact_list.html**.

To learn more about this opportunity, consider the following:

- **Contact the state group**. Ask for reports, meeting agendas, schedules of public forums, etc.—many of which can be found on the state's web site.
- **Volunteer to serve**. Find out how you might be nominated to serve on the state panel or non-public working group. Find out when the group meets and attend one of its meetings. Introduce yourself to the panel members.
- **Prepare a statement**. Find out when the next state forum is scheduled and sign up to make a statement or provide illustrative information. Start working on your statement now. Generally there are time limits (e.g., two minutes) for speakers.

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APPENDIX 1-A

IDEA Regulations: Parentally Placed Private School Children with Disabilities

The Department believes that the right of parents to choose where their children should be educated, whether at public or private school, is extremely important. Nevertheless, the rights of parentally placed private school children with disabilities under IDEA Part B are not the same as those of children with disabilities who are enrolled in public schools and are served at public agency programs or public agency placements at private schools. The following is a brief summary of the major applicable provisions in IDEA that are relevant to parentally placed private school children with disabilities. 20 U.S.C. §1412(a)(10)(A); 34 C.F.R. §§300.450-300.462.

34 C.F.R. §300.450 Definition of "private school children with disabilities."

As used in this part, **private school children with disabilities** *means children with disabilities enrolled by their parents in private schools or facilities other than children with disabilities covered under §§300.400-300.402.*

(Authority: 20 U.S.C. 1412(a)(10)(A))

34 C.F.R. §300.451 Child Find for private school children with disabilities.

(a) Each LEA shall locate, identify, and evaluate all private school children with disabilities, including religious-school children residing in the jurisdiction of the LEA, in accordance with §§300.125 and 300.220. The activities undertaken to carry out this responsibility for private school children with disabilities must be comparable to activities undertaken for children with disabilities in public schools.

(b) Each LEA shall consult with appropriate representatives of private school children with disabilities on how to carry out the activities described in paragraph (a) of this section.

(Authority: 20 U.S.C. 1412(a)(10)(A)(ii))

34 C.F.R. §300.452 Provision of services-basic requirement.

(a) **General.** *To the extent consistent with their number and location in the State, provision must be made for the participation of private school children with disabilities in the program assisted or carried out under Part B of the Act by providing them with special education and related services in accordance with §§300.453-300.462.*

(b) **SEA responsibility-services plan.** *Each SEA shall ensure that, in accordance with paragraph (a) of this section and §§300.454-300.456, a services plan is developed and implemented for each private school child with a disability who has been designated to receive special education and related services under this part.*

(Authority: 20 U.S.C. 1412(a)(10)(A)(i))

Accompanies
Practices 1-1/1-5

APPENDIX 1-A

[IDEA Regulations, continued]

34 C.F.R. §300.453 Expenditures.

(a) **Formula**. *To meet the requirement of §300.452(a), each LEA must spend on providing special education and related services to private school children with disabilities-*

(1) For children aged 3 through 21, an amount that is the same proportion of the LEA's total subgrant under section 611(g) of the Act as the number of private school children with disabilities aged 3 through 21 residing in its jurisdiction is to the total number of children with disabilities in its jurisdiction aged 3 through 21; and

(2) For children aged 3 through 5, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the number of private school children with disabilities aged 3 through 5 residing in its jurisdiction is to the total number of children with disabilities in its jurisdiction aged 3 through 5.

(b) **Child Count**.

(1) Each LEA shall—

(i) Consult with representatives of private school children in deciding how to conduct the annual count of the number of private school children with disabilities; and

(ii) Ensure that the count is conducted on December 1 or the last Friday of October of each year.

(2) The Child Count must be used to determine the amount that the LEA must spend on providing special education and related services to private school children with disabilities in the next subsequent fiscal year.

(c) **Expenditures for Child Find may not be considered**. *Expenditures for Child Find activities described in §300.451 may not be considered in determining whether the LEA has met the requirements of paragraph (a) of this section.*

(d) **Additional services permissible**. *State and local educational agencies are not prohibited from providing services to private school children with disabilities in excess of those required by this part, consistent with State law or local policy.*

(Authority: 20 U.S.C. 1412(a)(10)(A))

34 C.F.R. §300.454 Services determined.

(a) No individual right to special education and related services.

(1) No private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

(2) Decisions about the services that will be provided to private school children with disabilities under §§300.452-300.462, must be made in accordance with paragraphs (b), and (c) of this section.

(b) Consultation with representatives of private school children with disabilities.

(1) General. Each LEA shall consult, in a timely and meaningful way, with appropriate representatives of private school children with disabilities in light of the funding under §300.453, the number of private school children with disabilities, the needs of private school children with disabilities, and their location to decide—

(i) Which children will receive services under §300.452;

(ii) What services will be provided;

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APPENDIX 1-A

[IDEA Regulations, continued]

(iii) How and where the services will be provided; and

(iv) How the services provided will be evaluated.

(2) Genuine opportunity. Each LEA shall give appropriate representatives of private school children with disabilities a genuine opportunity to express their views regarding each matter that is subject to the consultation requirements in this section.

(3) Timing. The consultation required by paragraph (b)(1) of this section must occur before the LEA makes any decision that affects the opportunities of private school children with disabilities to participate in services under §§300.452-300.462.

(4) Decisions. The LEA shall make the final decisions with respect to the services to be provided to eligible private school children.

(c) Services plan for each child served under §§300.450-300.462. If a child with a disability is enrolled in a religious or other private school and will receive special education or related services from an LEA, the LEA shall—

(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with §300.455(b); and

(2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

(Authority: 1412 (a)(10)(A))

34 C.F.R. §300.455 Services provided.

(a) General.

(1) The services provided to private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools.

(2) Private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

(3) No private school child with a disability is entitled to any service or to any amount of a service the child would receive if enrolled in a public school.

(b) Services provided in accordance with a services plan.

(1) Each private school child with a disability who has been designated to receive services under §300.452 must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in §§300.453-300.454, it will make available to private school children with disabilities.

(2) The services plan must, to the extent appropriate—

(i) Meet the requirements of §300.347, with respect to the services provided; and

(ii) Be developed, reviewed, and revised consistent with §§300.342-300.346.

(Authority: 20 U.S.C. 1412(a)(10)(A))

Accompanies
Practices 1-1/1-5

APPENDIX 1-A

[IDEA Regulations, continued]

34 C.F.R. §300.456 Location of services; transportation.

(a) **On-site**. *Services provided to private school children with disabilities may be provided on-site at a child's private school, including a religious school, to the extent consistent with law.*

(b) **Transportation**.

(1) **General**.

(i) If necessary for the child to benefit from or participate in the services provided under this part, a private school child with a disability must be provided transportation—

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

(ii) LEAs are not required to provide transportation from the child's home to the private school.

(2) **Cost of transportation**. *The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of §300.453.*

(Authority: 20 U.S.C. 1412(a)(10)(A))

34 C.F.R. §300.457 Complaints.

(a) ***Due process inapplicable***. *The procedures in §§300.504-300.515 do not apply to complaints that an LEA has failed to meet the requirements of §§300.452-300.462, including the provision of services indicated on the child's services plan.*

(b) ***Due process applicable***. *The procedures in §§300.504-300.515 do apply to complaints that an LEA has failed to meet the requirements of §300.451, including the requirements of §§300.530-300.543.*

(c) ***State complaints***. *Complaints that an SEA or LEA has failed to meet the requirements of §§300.451-300.462 may be filed under the procedures in §§300.660-300.662.*

(Authority: 20 U.S.C. 1412(a)(10)(A))

34 C.F.R. §300.458 Separate classes prohibited.

An LEA may not use funds available under section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the students if—

(a) The classes are at the same site; and

(b) The classes include students enrolled in public schools and students enrolled in private schools.

(Authority: 20 U.S.C. 1412(a)(10)(A))

34 C.F.R. §300.459 Requirement that funds not benefit a private school.

(a) An LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.

(b) The LEA shall use funds provided under Part B of the Act to meet the special education and related services needs of students enrolled in private schools, but not for-

Accompanies
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APPENDIX 1-A

[IDEA Regulations, continued]

(1) The needs of a private school; or

(2) The general needs of the students enrolled in the private school.

(Authority: 20 U.S.C. 1412(a)(10)(A))

34 C.F.R. §300.460 Use of public school personnel.

An LEA may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities—

(a) To the extent necessary to provide services under §§300.450-300.462 for private school children with disabilities; and

(b) If those services are not normally provided by the private school.

(Authority: 20 U.S.C. 1412(a)(10)(A))

34 C.F.R. §300.461 Use of private school personnel.

An LEA may use funds available under sections 611 or 619 of the Act to pay for the services of an employee of a private school to provide services under §§300.450-300.462 if-

(a) The employee performs the services outside of his or her regular hours of duty; and

(b) The employee performs the services under public supervision and control.

(Authority: 20 U.S.C. 1412(a)(10)(A))

34 C.F.R. §300.462 Requirements concerning property, equipment, and supplies for the benefit of private school children with disabilities.

(a) A public agency must keep title to and exercise continuing administrative control of all property, equipment, and supplies that the public agency acquires with funds under section 611 or 619 of the Act for the benefit of private school children with disabilities.

(b) The public agency may place equipment and supplies in a private school for the period of time needed for the program.

(c) The public agency shall ensure that the equipment and supplies placed in a private school—

(1) Are used only for Part B purposes; and

(2) Can be removed from the private school without remodeling the private school facility.

(d) The public agency shall remove equipment and supplies from a private school if-

(1) The equipment and supplies are no longer needed for Part B purposes; or

(2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.

(e) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities.

(Authority: 20 U.S.C. 1412(a)(10)(A))

Accompanies
Practices 1-1/1-5

APPENDIX 1 - B

Summary of Applicable IDEA Provisions

1) Children with disabilities placed at private schools by their parents when free appropriate public education (FAPE) from a public agency program or placement is not at issue have no individual entitlement to services under Part B.

2) Provision is made for the participation of some children with disabilities enrolled by their parents in private preschool, elementary, and secondary schools, consistent with their number and location in the state, in the program assisted or carried out under Part B by providing for special education and related services for some children.

3) Activities are conducted to locate, identify, and evaluate children placed by their parents in private schools, including religious schools, who may need special education and related services. This requirement is known as Child Find.

4) A proportionate amount of the federal funds available under Part B is expended for services for parentally placed private school children with disabilities.

5) Special education and related services may be provided to parentally placed private school children with disabilities on the premises of private, including religious schools, in a manner that does not violate the Establishment Clause of the First Amendment to the U.S. Constitution and is consistent with applicable State constitutions and laws.

[20 U.S.C. §1412(a)(10)(A); 34 C.F.R. §§300.451-300.462.]

Accompanies
Practice 1-3

APPENDIX 1-C

Match the Decision with the Regulation

Test your knowledge. Court cases related to parentally placed private school children with disabilities and IDEA are presented. They are followed by a list of IDEA provisions that resulted subsequent to the case decisions. Indicate which regulations are similar to the final judicial decision in each case. [*Note*: The decisions in these cases should not be construed as *causing* the provisions in IDEA.]

CASES

_____ 1) Goodall v. Stafford County School Board [predates IDEA 1997]

_____ 2) Zobrest v. Catalina School District [predates IDEA 1997]

_____ 3) Tribble v. Montgomery County Board of Education [predates IDEA 1997]

_____ 4) K.R. v. Anderson Community School Corporation [predates IDEA 1997]

_____ 5) Russman v. Board of Education of the Enlarged City School District of Watvliet [predates IDEA 1997]

IDEA REGULATIONS

A) §300.451 Child Find for private school children with disabilities.

B) §300.452 Provision of services—basic requirement.

C) §300.453 Expenditures.

D) §300.454 Services determined.

E) §300.455 Services provided.

F) §300.456 Location of services: Transportation.

Accompanies
Practice 1-5

APPENDIX 1-C

[Match the Decision with the Regulation, continued]

ANSWER KEY:

Goodall v. Stafford County School Board

Decision: The Court upheld the school district's position stating that it met its obligations by offering the student special education and related services at the public school site.

Regulations:

- §300.403 No obligation to provide FAPE.
- §300.452 Provision of services—basic requirement.
- §300.454 Services determined.
- §300.455 Services provided.

Zobrest v. Catalina School District

Decision: The school district is not prohibited by the U.S. Constitution from providing a sign language interpreter to a student with a disability who is attending a parochial school.

Regulations:

- §300.453 Expenditures.
- §300.454 Services determined.
- §300.456 Location of services.

Tribble v. Montgomery County Board of Education

Position of the U.S. Department of Education: The amicus brief filed by the U.S. Department of Education stated that parentally placed private school children with disabilities do not have an individual entitlement to services under IDEA Part B, but that private school children as a group must be afforded a genuine opportunity for equitable participation in special education programs conducted by local school districts.

Regulations:

- §300.452 Provision of services—basic requirement.
- §300.453 Expenditures.
- §300.454 Services determined.
- §300.455 Services provided.

Accompanies
Practice 1-5

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APPENDIX 1-C

[Match the Decision with the Regulation, continued]

K.R. v. Anderson Community School Corporation, 26 IDELR 864 (1997)

Decision: If FAPE is offered at a public school and the parents voluntarily choose to enroll their child in a private school, the school district is not obligated to offer comparable services at the private school. The school district decides what services will be offered to which parentally placed private school children with disabilities and where.

Regulations:

- §300.452 Provision of services—basic requirement.
- §300.454 Services determined.

Russman v. Board of Education of the Enlarged City School District of Watvliet, 28 IDELR 612 (1998)

Decision: The school district is not obligated to provide special education and related services to voluntarily enrolled private school students; however, districts must provide private school students with disabilities special education services using a proportionate amount of federal IDEA Part B funds. School districts are allowed to furnish on-site services.

Regulations:

- §300.452 Provision of services—basic requirement.
- §300.453 Expenditures.
- §300.454 Services determined.
- §300.456 Location of services: Transportation.

Accompanies
Practice 1-5

APPENDIX 1-D

Individuals with Disabilities Education Act (IDEA) 1997: Services to Parentally Placed Private School Students with Disabilities

Introduction

The Individuals with Disabilities Education Act of 1997 (IDEA) requires every state to have in effect policies and procedures to ensure a free appropriate public education (FAPE) for all students with disabilities. School districts have obligations to parentally placed private school students with disabilities under Part B of the Individuals with Disabilities Education Act (IDEA Part B). IDEA Part B can provide benefits to students with disabilities who are placed by their parents in private schools.

Information about IDEA and services to parentally placed private school students with disabilities is available at the Office of Non-Public Education's (ONPE) web site at **www.ed.gov/offices/OIIA/NonPublic/** under No Child Left Behind and ED Programs. Documents referred to below are all on the ONPE web site. IDEA was reauthorized in 1997, and the U.S. Department of Education issued final regulations in March 1999 (available at **www.ed.gov/offices/OSERS/IDEA/**). Significant changes in IDEA 1997 for parentally placed private school students with disabilities include the following:

- **Consultation**: local education agencies (LEAs) are required to consult with private school officials prior to conducting Child Find activities (see below for definition) in private schools.
- **No individual entitlement to services**: school districts must provide to the group of parentally placed private school students with disabilities residing within their district a genuine opportunity for equitable participation in their special education program.

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Practice 1-6

[IDEA & Private Schools, continued]

- **Services plan**: any parentally placed private school student with a disability whom an LEA elects to serve must have a services plan that, to the extent appropriate, meets the content requirements for Individualized Education Programs (IEPs) and is developed, reviewed, and revised consistent with the IEP process requirements. [Content requirements of an IEP are available at **www.ideapractices.org/law/downloads/Fullregs.html.**]

Guidance on providing services to parentally placed private school students under IDEA was issued in May 2000 by the Office of Special Education Programs, in consultation with the Office of Non-Public Education and some of their constituent organizations in a document entitled, ***Individuals with Disabilities Education Act (IDEA) 1997: Services to Parentally Placed Private School Students with Disabilities***. Following is a summary of the key points of that guidance.

Consultation

By law, school districts are required to consult with appropriate representatives of parentally placed private school students with disabilities throughout the various phases of the development and design of the school district's special education program for these students under Part B of IDEA. This consultation must be both timely and meaningful. Consultation includes discussions on how to conduct the Child Find count and determining how the students needs will be identified, which students with disabilities will receive services, what services will be offered, how and where the services will be provided, and how the services will be assessed.

Consultation takes place in light of the federal funding available, the number of private school students with disabilities, the location of private school students with disabilities, and the needs of private school students with disabilities. The LEA must provide a genuine opportunity for appro-

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APPENDIX 1-D

[IDEA & Private Schools, continued]

priate representatives of private school students to express their views on each of these matters.

Child Find

Under the Child Find requirement, state education agencies (SEAs) and LEAs are obligated to locate, identify, and evaluate all children residing in the state who are suspected of having a disability under Part B of IDEA, so that FAPE can be made available to all eligible children. Activities undertaken to carry out Child Find for parentally placed private school students must be comparable to activities undertaken for Child Find for students in public schools. In determining how and when to carry out Child Find, LEAs must consult with appropriate representatives of parentally placed private school students with disabilities.

Following the initial evaluation, an eligibility determination must be made by a group of qualified professionals and the child's parents, and this group must determine whether the child has a disability as defined in Part B. If a determination is made that the child needs special education and related services, the school district must develop an IEP for the child, unless the parents make clear their intention to enroll their child at a private school and that they are not interested in a public program or placement for their child. (See Services Plan.)

The costs of Child Find for parentally placed private school students with disabilities cannot be considered in determining the federal share of IDEA funds that must be used to serve private school students. The Child Find obligations, including individual evaluations and three-year re-evaluations, exist independently from the services provisions under IDEA. These obligations may not be considered in determining whether an LEA has met the annual expenditure requirement for services for parentally placed private school students with disabilities.

Accompanies
Practice 1-6

APPENDIX 1-D

[IDEA & Private Schools, continued]

Annual Expenditures

The amount that must be expended annually for services to parentally placed private school students with disabilities is calculated on a proportionate share basis. The formula is created by comparing the total number of students with disabilities residing in the LEA's jurisdiction who are eligible to receive special education and related services under Part B with the total number of eligible parentally placed private school students with disabilities residing in the LEA's jurisdiction. The proportionate share is determined based on the total number of eligible parentally placed private school students with disabilities residing within the LEA's jurisdiction and is not limited to the number of those students receiving special education or related services in accordance with a services plan. Although school districts are not required under federal law to use state and local funds in meeting their obligations to parentally placed private school students with disabilities under Part B, they may expend their own funds to provide additional services to parentally placed private school students with disabilities.

Provision of Services

While school districts have an obligation to ensure the equitable participation of parentally placed private school students with disabilities in programs assisted or carried out under Part B, the law and regulations specify that parentally placed private school students with disabilities do not have individual entitlements to special education or related services.

However, the statute and regulations in no way prohibit states or local school districts from providing services to parentally placed private school children with disabilities in excess of those required under Part B, consistent with state law or local policy. Through the consultation process mentioned above and in light of at least the amount of Part B funds the school district must spend in providing services to parentally placed private school students with disabilities, the school district and private school

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APPENDIX 1-D

[IDEA & Private Schools, continued]

officials design the special education program for those students who have been identified to receive services. Within these parameters, school districts have broad discretion in providing special education services to specific students. Examples of services that could be provided include: speech pathology, occupational therapy, physical therapy, reading or math lab, classroom assistive hearing devices, sign language interpreter, reader, consultations with the private school classroom teacher, teacher training and professional development for private school personnel. The services provided to private school students with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools.

Equipment and supplies also can be provided to private school students with disabilities on the premises of the private school for the period of time needed for the program. However, no funds under Part B can be used for repairs, minor remodeling, or construction of private school facilities.

Services Plan

A significant change in IDEA 1997 and subsequent regulations of March 1999 is the introduction of a services plan in lieu of an IEP for eligible, parentally placed private school students with disabilities. Any parentally placed private school student with a disability whom an LEA elects to serve must have a services plan. The Part B regulations do not require LEAs to develop services plans for every parentally placed private school student with a disability residing in the LEA's jurisdiction. Services plans are required only for those parentally placed private school students with disabilities whom the LEA has elected to serve and should reflect only the services that the LEA has determined it will provide to the student. Any additional accommodations being provided by the private school should not be part of the services plan.

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APPENDIX 1-D

[IDEA & Private Schools, continued]

The services plan must be developed, reviewed, and revised consistent with the IEP requirements. In addition, the LEA must ensure that a representative of the private school attends each services plan meeting, and if the representative cannot attend, the LEA must use other methods to ensure participation by the private school.

Location of Services and Transportation

The location of services for parentally placed private school students with disabilities is determined through the consultation process. Services can be provided at the private school, including religious schools, to the extent consistent with law, or at another location. The Supreme Court decision in Agostini v. Felton in 1997 clarified that the Constitution does not prohibit providing these services in space located in a private religious school. To the extent possible, LEAs are encouraged to provide services at the private school. If services offered are not on the private school site, the LEA is responsible for providing transportation to the service site if it is necessary for the student to benefit from or participate in the service. Transportation may be provided in order for students to receive services but may not be provided between a student's home and his or her private school.

Costs related to transportation are paid from the private school students share of federal IDEA funds and may be included in calculating whether the LEA has met the requirement of equitable expenditures for special education and related services for parentally placed private school students with disabilities.

Complaint Procedure and Due Process

Due process procedures apply only to Child Find for parentally placed private school students with disabilities. Under the Child Find provision, parents of parentally placed private school students may use the due pro-

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APPENDIX 1-D

[IDEA & Private Schools, continued]

cess procedures regarding issues related to the identification and evaluation of students. In addition, an organization or individual may file a signed written complaint in accordance with the state complaint procedures alleging that an SEA or LEA has violated applicable Child Find requirements.

On the other hand, the due process procedures do not apply to complaints that an LEA has failed to meet applicable requirements for the provision of services for parentally placed private school students since these students do not have an individual entitlement to services. However, an organization or individual may file a signed written complaint in accordance with the state complaint procedures alleging that an SEA or LEA has failed to meet the requirements, such as failure to properly conduct the consultation process. Due process still does not apply in this situation.

Additional Information

For U.S. Department of Education guidance on providing services to parentally placed private school students under IDEA:

Office of Special Education Programs

U.S. Department of Education
330 C Street, SW, Room 3086
Washington, DC 20202
Telephone: 202-205-5507
Fax: 202-260-0416
TTY: 202-205-5637
Web: **www.ed.gov/offices/OSERS/OSEP/index.html**

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APPENDIX 1-D

[IDEA & Private Schools, continued]

For questions about the participation of private school students and teachers in federal programs, contact:

Office of Non-Public Education

U.S. Department of Education
400 Maryland Avenue, SW
Room 5E115
Washington, DC 20202-3600
Telephone: 202-401-1365
Fax: 202-401-1368
Email: OIIANon-PublicEducation@ed.gov
Web: **www.ed.gov/offices/OIIA/NonPublic/**

Accompanies
Practice 1-6

APPENDIX 1-E

An Overview of Parentally Placed Private School Children with Disabilities and IDEA

IDEA and Part B Regulations

- School districts are obligated to ensure the equitable participation of parentally placed private school children with disabilities in programs assisted or carried out under Part B.
- Parentally placed private school students with disabilities do not have an individual entitlement to services.
- States and local school districts may provide services to students with disabilities in excess of those required under IDEA Part B.

Child Find

- Child Find activities must be comparable to those for public school students.
- Child Find activities must be developed in consultation with appropriate representation of private schools to assure access.
- Child Counts are used to determine the portion of federal IDEA funds to be used to serve private school students with disabilities in the next subsequent fiscal year.
- Due process rights of parents of parentally placed private school children with disabilities apply only to Child Find, evaluation, and determination of eligibility.

Annual Count of Children with Disabilities

- LEA officials must consult with representatives of private school children in deciding how to conduct the annual Child Count of private school children with disabilities.

Accompanies
Practice 1-8

APPENDIX 1-E

[Overview of Parentally Placed, continued]

- Yearly Child Counts for public and private schools must be conducted on the same date (December 1 or the last Friday in October).

Federal Funds

- The LEA must spend a proportionate share of its federal IDEA funds on services to parentally placed children with disabilities in private schools.
- The costs associated with Child Find for private school students with disabilities cannot be considered in determining the proportionate share.

State and Local Funds

- State and local funds may be used to provide services to private school students with disabilities.
- States and LEAs may provide services to students in excess of those required under IDEA Part B.

Consultation with Representatives of Parentally Placed Private School Children with Disabilities

Timely and meaningful consultation might focus on the following:

- Which children will receive services?
- What services will be provided?
- How will the services be provided?
- Where will the services be provided?
- How will the services be evaluated?

Accompanies
Practice 1-8

APPENDIX 1-E

[Overview of Parentally Placed, continued]

Consultation Takes Place in Light of...

- Available federal IDEA funds.
- Number of private school students with disabilities.
- Location of private school students with disabilities.
- Needs of private school students with disabilities.

Services Plan

- Each parentally placed private school child with disabilities who will receive services under IDEA must have a services plan.
- A services plan describes the specific special education and related services that the LEA will provide.
- Services plans must, to the extent appropriate, meet the content requirements of an IEP.
- Services plans must, to the extent appropriate, be developed, reviewed, and revised consistent with IEP procedures.
- LEA must ensure that a private school representative attends or otherwise provides input.
- Due process rights for parents do not apply to services plans.
- State complaint procedures exist to resolve issues.

Accompanies
Practice 1-8

APPENDIX 1 - E

[Overview of Parentally Placed, continued]

Location of Services

- Services may be on-site at the private school, including religiously-affiliated private schools, to the extent consistent with law.

Transportation

- If services are not on the private school site, transportation must be provided if necessary for the child to benefit from or participate in the services provided under IDEA.
- LEAs are not required to transport children from home to the private school.
- The cost of transportation may be included in the total proportionate share of federal IDEA funds for parentally placed private school students with disabilities.

Accompanies
Practice 1-8

APPENDIX 1 - F

True or False?

___ 1) The local school district has an obligation to locate and identify all children with disabilities in its jurisdiction, including those children who are parentally placed in private schools.

___ 2) Due process rights for parentally placed private school children with disabilities pertain to Child Find activities, but not to service delivery.

___ 3) Child Find counts are used to determine the federal portion of funds allocated by the local school district to serve parentally placed private school students with disabilities.

___ 4) States and local school districts must provide special education and related services to some students with disabilities enrolled by their parents in private schools using a proportionate amount of federal IDEA Part B funds.

___ 5) Local school districts must consult with appropriate private school representatives regarding Child Find activities.

___ 6) Parentally placed private school children with disabilities who receive special education and related services from the public school district must have a services plan.

___ 7) Services for students may not be delivered on-site at a private school, particularly religiously-affiliated schools.

___ 8) Private school children do not have an individual entitlement to special education and related services.

___ 9) The final decision of what services to offer parentally placed private school children with disabilities lies with the local school district.

___ 10) The school district has the option of inviting a representative of the private school to the meeting at which a services plan is developed for a child.

Accompanies
Practice 1-8

APPENDIX 1-G

How Do We Make This Happen?

"I feel we (public school system) have a productive working relationship with the private schools and parents in our jurisdiction. This relationship has been fostered by all parties approaching the wide variety of issues raised with an open mind and the intention of problem solving for the ultimate goal of providing for the needs of children. I have found that the key to success is having an open channel of communication between private schools, parents, and the public school system." David Cross, Montgomery County Public Schools

Think about your own situation. Make a list of things that either are facilitating or might facilitate communication. Make a list of those things that are hindering communication.

Things That Facilitate Communication

Things That Hinder Communication

Accompanies
Practice 1-9

APPENDIX 1-H

Tips for Contacting Private School Representatives

Locating Private School Representatives

- **Utilize the Private School Locator.** The National Center for Education Statistics maintains an online, searchable database of private schools throughout the United States. The Locator can be found at **nces.ed.gov/surveys/pss/privateschoolsearch**. To obtain a single free copy of the CD-ROM, contact ED PUBS at 877-4ED-PUBS. The search engine allows the user to search for private schools by name, affiliation, association membership, grade span, program emphasis, and location (including state, county, city, zip code, and mile radius of zip code).
- **Find out if there is a central office that represents a group of schools.** For example, Catholic schools have diocesan offices that are solely dedicated to education. Contacting the central office can ensure that all of the schools represented by that agency will receive the information from the SEA and/or LEA in a timely and meaningful manner.
- **Create an address book.** Once you have made contact, keep all important information recorded in one place (e.g., Rolodex, Palm Pilot). Collect information, such as name, phone number, email, alternate contact, address, etc. Update the address book annually.

Making Contact with Private School Representatives

- **Contact the private school representatives by mail and follow-up with a phone call.** When making the first contact with a private school representative, consider sending a letter of introduction. In that letter, explain your purpose, position, and whom you represent (e.g., SEA or LEA). Follow up with the contact within a week's time.

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APPENDIX 1-H

[Tips for Contacting, continued]

- **Arrange a face-to-face meeting.** Provide a genuine opportunity for private school representatives to discuss the needs of children with disabilities by arranging a face-to-face meeting. Placing faces with names is an important step in building trusting relationships. During the first meeting, if possible, arrange to have refreshments available; this helps to ease tension and sends a message that the host cares about the well-being of the guest.
- **Schedule a follow-up meeting.** Continuing an open dialogue will help to ensure that important activities (e.g., Child Find) are being implemented consistently. Follow-up meetings can provide a forum to address any glitches that may arise in processes.

Showing Interest in Private School Representatives' Ideas

- **Listen carefully to the concerns.** Representatives of private schools are eager to contribute to the process of ensuring that the students with disabilities enrolled in their schools receive the support they need to access the general curriculum and achieve academic success.
- **Create an open dialogue to generate solutions.** Representatives of children enrolled in private schools welcome the opportunity to be involved in generating creative and innovative solutions to the challenges faced in special education.

Sharing Ongoing Information

- **Create a mechanism for sharing information.** Collaboration is enhanced when all parties stay in communication with each other. Consider creating a ListServ for disseminating information. Make sure all private school representatives are included on general mail lists.

Accompanies
Practice 1-10

APPENDIX 1-H

[Tips for Contacting, continued]

- **Share forms**. Review forms and procedures used to collect information and make decisions. To enhance usability of data, make sure private school representatives understand the type of information being solicited on these tools.
- **Arrange for periodic meetings**. Consider hosting quarterly meetings to which private school representatives are invited. At these meetings, provide updates and share reactions.

Accompanies
Practice 1-10

APPENDIX 1-I

Sample Letter of Introduction

September 15, 2002

Dr. Marcella Smith, Assistant Superintendent
Special Education Services
Adams Mill Public Schools
1110 N. Main Street
Ames, IL 28945

Dear Dr. Smith:

I am the director of educational services for Mills Academy, which serves more than 200 children in grades K-8. As we look to the future, in order to assist all students with their educational needs, we recognize that some students with disabilities enrolled by their parents in private schools require additional support.

With that in mind, I would like to suggest that we meet to discuss the benefit to these children under the Individuals with Disabilities Education Act (IDEA). In particular, it is necessary to address how we can assist you with Child Find activities, help facilitate access of children with disabilities to the identification and evaluation process, and ensure the equitable participation of students in the delivery of special education and related services.

Mills Academy is committed to ensuring that children with disabilities who attend our school receive the necessary support that they require to achieve high standards. To do this, we must facilitate many opportunities for students with disabilities to access the general curriculum. The support students with disabilities receive from the public schools, through benefit of IDEA, can increase their educational opportunities significantly.

I will contact you during the first week of October to arrange a time to meet. Or, if it is more convenient for you, please feel free to contact me by phone at 703-888-5456 or email at cmorgan@rts.net.

Thank you for your time and attention to this important matter. I look forward to meeting you soon.

With warm regards,
Charlene Morgan, Director of Education, Mills Academy

Accompanies
Practice 1-11

APPENDIX 1 - I

[Sample Letter, continued]

REVIEW THE LETTER

1) If you were the recipient of the letter, what would be your initial reaction?

2) Rate the author's effectiveness in presenting the following information:

- Introducing herself and stating the purpose of the letter.
- Summarizing the law as related to parentally placed private school students with disabilities.
- Stating the benefits of collaboration.
- Explaining interest in pursuing contact.
- Suggesting a meeting to get acquainted.
- Describing a plan to follow up on the letter (e.g., a phone call in a week).
- Providing contact information.

3) How might you enhance the letter?

Accompanies
Practice 1-11

APPENDIX 1- J

What Do These Terms Mean to You?

Think about the terms: *timely, meaningful*, and *genuine opportunity to express their views*. What do these terms mean to you? Write your thoughts here:

To be timely means:

To be meaningful means:

To provide a genuine opportunity for expressing views means:

Accompanies
Practice 1-13

APPENDIX 1-K

Developing an Action Plan to Enhance Collaboration

IDEA provides for consultation between private and public school personnel in selected areas, including:

- **Child Find and Child Count**: Each LEA shall consult with appropriate representatives of private school children with disabilities on how to locate, identify, and evaluate private school children with disabilities. 34 C.F.R. §300.451(a)(b). Each LEA shall consult with representatives of private school children in deciding how to conduct the annual count of the number of private school children with disabilities. 34 C.F.R. §300.453(b)(i).
- **Service Delivery**: Each LEA shall consult with representatives of private school children with disabilities to decide which children will receive services, what services will be provided, how and where the services will be provided, and how the services will be evaluated. 34 C.F.R. §300.454(b).
- **Services Plan**: Each private school child with a disability who has been designated to receive special education and related services must have a services plan. The LEA initiates and conducts meetings to develop, review, and revise these services plans. The LEA is responsible for ensuring that a representative of the private school attends each meeting; if the representative is unable to attend, other methods to ensure his or her participation must be used (e.g., individual or conference telephone calls). 34 C.F.R. §300.454(c)(1-2).

In carrying out these provisions, IDEA provides that such consultations will:

- Be timely and meaningful.
- Offer a genuine opportunity for appropriate representatives of private school children with disabilities to express their views regarding each matter.

Accompanies
Practice 1-13

APPENDIX 1-K

[Developing an Action Plan, continued]

In addition, the LEA must ensure that a representative of the religious or other private school attends the meetings at which a child's services plan is developed, reviewed, or revised. If the representative cannot attend, the LEA must use other methods to ensure participation by the private school, including individual or conference telephone calls.

Each of these features, if implemented effectively, can enhance collaboration between all stakeholders—private school representatives, parents, and public school personnel.

Create an Action Plan

1) For each of the areas requiring consultation, consider how it might be timely, made meaningful, and provide a genuine opportunity for participation. Generate ideas here.

Child Find and Child Count Practices to:

Enhance Timeliness:

Enhance Meaningfulness:

Ensure a Genuine Opportunity to Express Views:

Accompanies
Practice 1-13

APPENDIX 1-K

[Developing an Action Plan, continued]

Service Delivery Practices to:

Enhance Timeliness:

Enhance Meaningfulness:

Ensure a Genuine Opportunity to Express Views:

Services Plan Development, Review, and Revision Practices to:

Enhance Timeliness:

Enhance Meaningfulness:

Ensure a Genuine Opportunity to Express Views:

Ensure Participation in Meetings:

Accompanies
Practice 1-13

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APPENDIX 1-K

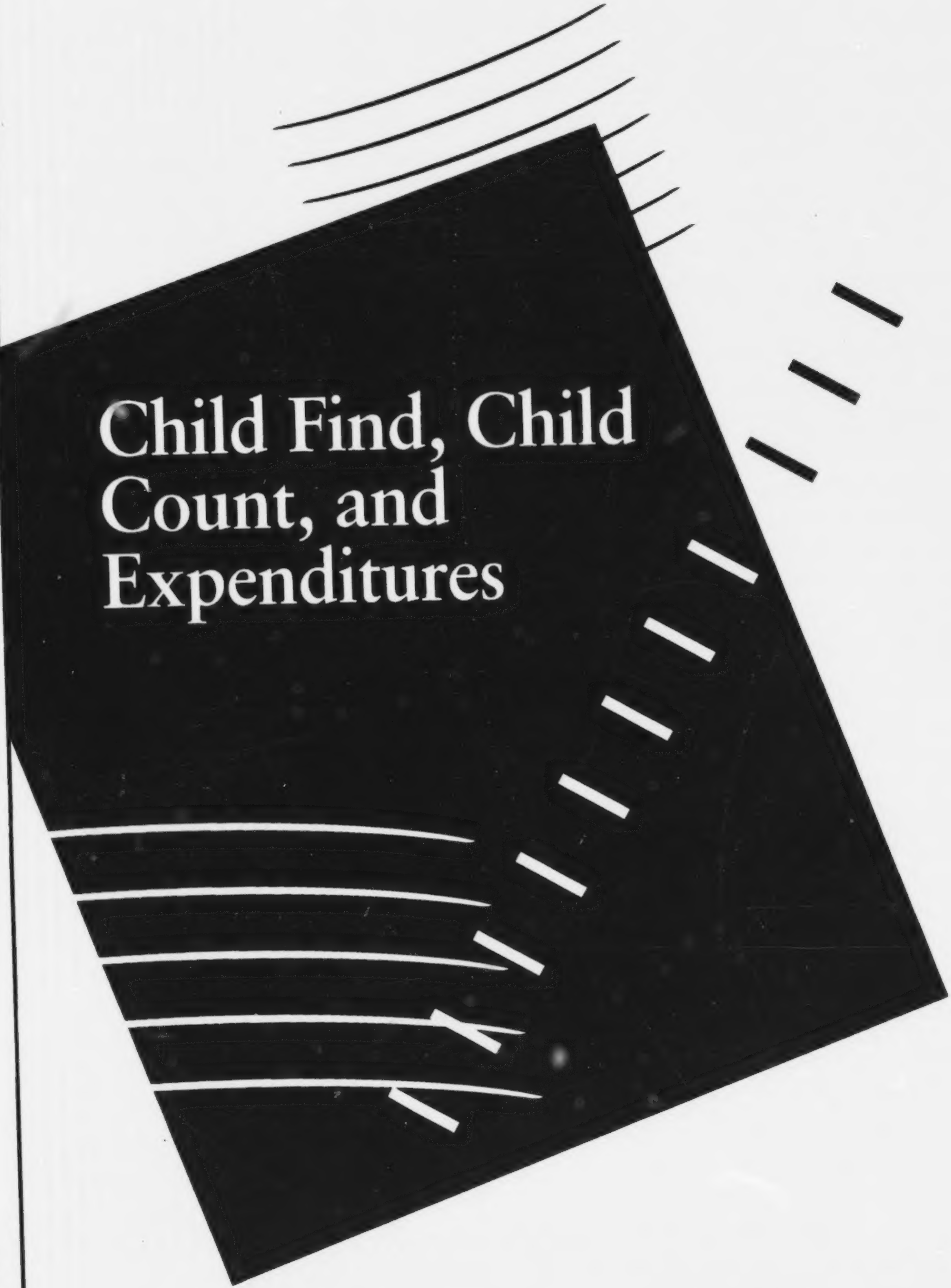
[Developing an Action Plan, continued]

2) Review your ideas. Which ones can you implement:

- Immediately, with little effort?
- After some planning? What specific actions are needed to make these ideas work?
- Not at all? Consider what might be hindering these ideas from working.

3) Make a plan to implement the ideas. Include steps that must be taken to explore those ideas that require further discussion or consideration (e.g., endorsement by the department, administrative sanctioning). Make a "To Do" list to ensure that the ideas are implemented.

Accompanies
Practice 1-13



Child Find, Child Count, and Expenditures

SECTION TWO

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SECTION 2

Child Find, Child Count, and Expenditures

Introduction

In the collaboration with the Piney Woods School District, St. Phillips School has undertaken several steps to identify the number of children with or suspected of having a disability in its parish. In addition to surveying all classroom teachers and parents of children who attend the school, St. Phillips staff members contacted parents on the waiting list for future enrollment. A public school district flyer was posted in the main office of St. Phillips School and an article was printed in the parish newsletter.

Representatives from a consortium of private schools in New Rock School District met with local district Child Find staff to review plans for conducting the annual Child Count. They noted that six of their schools in the jurisdiction were not included on the district's dissemination list and took steps to make sure these schools were included. The representatives also volunteered to provide a link from their organization's web site to the public school web site page announcing the Child Find activities.

As these vignettes show, collaboration between public school and private school personnel can enhance efforts to locate children with disabilities. The annual Child Count is used as a basis for determining the amount the LEA must spend on providing special education and related services for children with disabilities who are placed by their parents in private schools. Moreover, such collaboration is essential to ensuring that parentally placed private school children with disabilities who are designated to receive services by the LEA benefit from those services.

How do we locate children who may be affected by the IDEA provisions related to parentally placed private school children with disabilities? This section includes information on Child Find, Child Count, and expenditures. [Note: **Sidebar 4,** ***IDEA Regulations Related to Child Find, Child Count, and Expenditures***, presents the provisions verbatim.]

CHILD FIND

> *The State must have in effect policies and procedures to ensure that all children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated. 34 C.F.R. §300.125(a)(i)*

Under the IDEA Child Find requirement, state educational agencies (SEAs) and local education agencies (LEAs) are obligated to locate, identify, and evaluate all children residing in the state who are suspected of having a disability. In determining how and when to carry out Child Find, local education agencies must consult with appropriate representatives of parentally placed private school students with disabilities.

Activities undertaken to carry out Child Find for parentally placed private school students with disabilities must be comparable to activities undertaken for Child Find for students in public schools. [See **Appendix 2-A,** ***IDEA Child Find Regulations*** for the IDEA provisions.] Parents are entitled to the procedural safeguards that apply, including the right to:

- Participate in evaluation and eligibility meetings.
- Be provided with a copy of the evaluation report and eligibility determination.
- Be provided with prior written notice of proposed or refused actions.
- Be asked to provide informed written consent for the initial evaluation.

Children located and identified through Child Find activities receive an evaluation by the local school district. Following the initial evaluation, an eligibility determination must be made by a group of qualified professionals and the child's parents, and this group must determine whether the child has a disability as defined in IDEA Part B. If a determination is made that the child needs special education and related services, the general rule is that the school district must convene an IEP team to develop an individualized education program (IEP) for the child. This provides the parents with specific information regarding what a free appropriate public education would be for their child so they can decide whether to maintain the private school placement or to enroll their child in the public school to receive IEP services. The important exception to this rule would occur if the parents make clear their intention to enroll their child at a private school and that they are not interested in a public program or placement for their child in which case, an IEP would not be required.

The costs of Child Find for parentally placed private school students with disabilities cannot be considered in determining the federal share of IDEA funds that must be used to serve private school students. The Child Find obligations, including individual evaluations and three-year reevaluations, exist independently from the services provisions under IDEA.

CHILD COUNT

Each year, the LEA must conduct a Child Count on December 1 or the last Friday of October. Child Count is used to determine the amount that the LEA must spend on providing special education and related services to private school children with disabilities in the next subsequent fiscal year. IDEA provides that the LEA must consult with appropriate representatives of private school children in deciding how to conduct the annual count of the number of private school children with disabilities.

ANNUAL EXPENDITURES

The amount that must be expended annually for services to parentally placed private school students with disabilities is calculated on a proportionate share basis. The formula is created from the total number of students with disabilities residing in the LEA's jurisdiction who are eligible to receive special education and related services under IDEA Part B as compared with the total number of eligible parentally placed private school students with disabilities residing in the LEA's jurisdiction. The proportionate share is determined based on the total number of eligible parentally placed private school students with disabilities residing within the LEA's jurisdiction and is not limited to the number of those students receiving special education or related services in accordance with a services plan.

The following is an example of how the proportionate share is calculated:

> *Number of eligible children in public schools = 300*
>
> *Number of eligible children in private school = 20*
>
> *Total number of eligible children residing in the jurisdiction of the LEA = 320*
>
> *The number of children served was: 300 public school children + 5 private school children = 305*
>
> *Federal flow-through funds to School District is $152,500*
>
> *Using this formula, there are 20 eligible parentally placed private school children within a total number of 320 eligible public and private school children. The number of eligible parentally placed private school children (20) divided by the total number of eligible public and private school children (320) indicates that 6.25 percent of the LEA's subgrant, or $9,531.25, must be spent for the group of parentally placed children residing in the LEA and placed by their parents in private schools.*

[For more information on how this is cal-

IDEA Regulations on Child Find, Child Count, and Expenditures

34 C.F.R. §300.451 Child Find for private school children with disabilities.

(a) Each LEA shall locate, identify, and evaluate all private school children with disabilities, including religious-school children residing in the jurisdiction of the LEA, in accordance with §§300.125 and 300.220. The activities undertaken to carry out this responsibility for private school children with disabilities must be comparable to activities undertaken for children with disabilities in public schools.

(b) Each LEA shall consult with appropriate representatives of private school children with disabilities on how to carry out the activities described in paragraph (a) of this section.

(Authority: 20 U.S.C. 1412(a)(10)(A)(ii))

34 C.F.R. §300.452 Provision of services—basic requirement.

(a) **General**. To the extent consistent with their number and location in the State, provision must be made for the participation of private school children with disabilities in the program assisted or carried out under Part B of the Act by providing them with special education and related services in accordance with §§300.453-300.462.

(b) **SEA Responsibility-services plan**. Each SEA shall ensure that, in accordance with paragraph (a) of this section and §§300.454-300.456, a services plan is developed and implemented for each private school child with a disability who has been designated to receive special education and related services under this part.

(Authority: 20 U.S.C. 1412(a)(10)(A)(i))

34 C.F.R. §300.453 Expenditures

(a) **Formula**. To meet the requirement of §300.452(a), each LEA must spend on providing special education and related services to private school children with disabilities—

(1) For children aged 3 through 21, an amount that is the same proportion of the LEA's total subgrant under section 611(g) of the Act as the number of private school children with disabilities aged 3 through 21 residing in its jurisdiction is to the total number of children with disabilities in its jurisdiction aged 3 through 21; and

(2) For children aged 3 through 5, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the number of private school children with disabilities aged 3 through 5 residing in its jurisdiction is to the total number of children with disabilities in its jurisdiction aged 3 through 5.

(b) **Child Count**.

(1) Each LEA shall—

(i) Consult with representatives of private school children in deciding how to conduct the annual count of the number of private school children with disabilities; and

(ii) Ensure that the count is conducted on December 1 or the last Friday of October of each year.

(2) The Child Count must be used to determine the amount that the LEA must spend on

Sidebar 4

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IDEA Regulations on Child Find, Child Count, and Expenditures (continued)

providing special education and related services to private school children with disabilities in the next subsequent fiscal year.

(c) **Expenditures for Child Find may not be considered.** Expenditures for Child Find activities described in §300.451 may not be considered in determining whether the LEA has met the requirements of paragraph (a) of this section.

(d) **Additional services permissible.** State and local educational agencies are not prohibited from providing services to private school children with disabilities in excess of those required by this part, consistent with State law or local policy.

(Authority: 20 U.S.C. 1412(a)(10)(A))

Sidebar 4

culated, see **Sidebar 5**, *Proportionate Share Calculation for Parentally Placed Private School Children with Disabilities*.]

School districts may expend their own funds to provide additional services to parentally placed private school students with disabilities, although they are not required under federal law to use state and local funds in meeting their obligations to parentally placed private school students with disabilities under Part B.

OSEP Guidance on Issues Related to Child Find and Expenditures

OSEP addressed questions related to Child Find and expenditures in its memorandum, ***Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools***. Questions 1 through 13 and 40 address Child Find. Questions 14 through 21 address expenditures.

QUESTIONS AND ANSWERS: CHILD FIND

OSEP ? ① ***What is Child Find for parentally placed private school children with disabilities?***

The Individuals with Disabilities Education Act Amendments of 1997, Pub. L. 105-17 (IDEA) clarify the Department's longstanding policy and explicitly provide that the Child Find requirements in section 612(a)(3) of IDEA apply to private school children, including religious-school children. 20 U.S.C. §1412(a)(10)(A)(ii). Child

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Proportionate Share Calculation for Parentally Placed Private School Children with Disabilities

FOR FLINTSTONE SCHOOL DISTRICT:

# of eligible children in public schools = 300
# of eligible children in private schoos = 20

Total # of eligible children = 320

AT DECEMBER 1 CHILD COUNT:

# of children served in public schools = 300
# of children served in private schools = 5

Total # of public & private children served = 305

***Note**: 305 is the number turned in to OSEP for children served with IEP or services plan.*

FEDERAL FLOW-THROUGH FUNDS TO FLINTSTONE SCHOOL DISTRICT:

Total allocation to Flintstone = $152,500

FORMULA FOR CALCULATING PROPORTIONATE SHARE:

$$\boxed{\text{Total Proportionate Share for Private School Children}} = \frac{X}{\boxed{\text{Total Flow-Through Allocation}}} : \frac{\boxed{\text{Eligible Private School Children}}}{\boxed{\text{Total Eligible Public \& Private School Children}}}$$

***Note**: Proportionate share for parentally placed private school children is based on total children eligible, not children served.*

FLINTSTONE SCHOOL DISTRICT OBLIGATION:

$$\frac{X}{\$152{,}500} : \frac{20}{320}$$

X = $9,531.25 (This amount must be spent for the group of parentally-placed children in private schools)

Taken From: OSEP Memorandum: Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools

Sidebar 5

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Find refers to ongoing activities undertaken by SEAs and LEAs to locate, identify, and evaluate all children residing in the state who are suspected of having disabilities under Part B of IDEA (Part B), so that a free appropriate public education (FAPE) can be made available to all eligible children. 34 C.F.R. §§300.121, 300.125 and 300.220. (For parentally placed private school children with disabilities, the offer of FAPE is accomplished by offering to make available to an eligible child a public agency program or a public agency placement at a private school. Parents can choose not to accept public education in favor of their parental private school placement.) Under Part B, each LEA must conduct Child Find for all children in public and private schools, including religious schools, residing in the jurisdiction of the LEA, regardless of the severity of their disability, who are in need of special education and related services. 34 C.F.R. §300.451.

In carrying out Child Find for parentally placed private school children, SEAs and LEAs undertake activities similar to those undertaken for their publicly enrolled or publicly placed children, such as widely distributing informational brochures, providing regular public service announcements, staffing exhibits at health fairs and other community activities, and creating direct liaisons with private schools. Once children are identified who are suspected of having disabilities under Part B, LEAs must have procedures for conducting, at no cost to parents, Part B evaluations of such children residing in their jurisdiction within a reasonable period of time and without undue delay.

Since public agencies need to have data to develop an accurate count of the total number of eligible private school children with disabilities residing in their jurisdiction in calculating the proportionate share of their Part B subgrant that must be expended annually for services for these children, Child Find for parentally placed private school children with disabilities is particularly important.

OSEP ? ②

Can amounts expended for Child Find, including individual evaluations, be deducted from the required amount of funds to be expended on services for parentally placed private school children with disabilities?

No. The statutory provisions regarding Child Find and participation of parentally placed private school children with disabilities in programs assisted or carried out under Part B of IDEA are separate and distinct obligations. The Child Find obligation, including individual evaluations, exists independently from the services provision. (Compare 20 U.S.C. §1412(a)(3) with 20 U.S.C. §1412(a)(10)(A)). Therefore, the costs of Child Find activities, including individual evaluations, may not be considered in determining whether an LEA has met the annual expenditure requirement for services for parentally placed private school children with disabilities under Part B. 34 C.F.R. §300.453(c).

Must Child Find for private, including religious-school children, be comparable to Child Find for public school children?

Yes. Activities undertaken to carry out Child Find for parentally placed private school children, including religious-school children, must be comparable to activities undertaken for Child Find for children in public schools. 34 C.F.R. §300.451(a). This would include the timing of these activities, and LEAs may not delay conducting Child Find, including individual evaluations, for parentally placed private school children with disabilities until after Child Find for publicly enrolled or publicly placed children has been conducted. In determining how and when to carry out Child Find, public agencies must consult with appropriate representatives of parentally placed private school children with disabilities. 34 C.F.R. §300.451.

How can LEAs meet their Child Find obligations for parentally placed private school children residing in their jurisdiction, including religious schools?

LEAs can choose to meet this obligation by conducting the relevant activities or through contract, interagency agreement with some other entity, or through some other arrangement. If such an arrangement were undertaken, the LEA, and ultimately the SEA, still would retain responsibility for ensuring that all applicable Part B requirements are met. Whether an LEA could contract with a private school to conduct certain aspects of its Child Find, including individual evaluations, would have to be determined on a case-by-case basis.

May LEAs restrict their Child Find activities to children with certain disabilities, and exclude from Child Find some children, if the LEA determines, through consultation, that it will offer its population of parentally placed private school children with disabilities only certain specified services?

No. In conducting Child Find of all children residing in their jurisdiction, LEAs must identify and evaluate all children suspected of having any disabilities specified in Part B, regardless of whether such children are parentally placed at private schools, including religious schools. 34 C.F.R. §§300.125 and 300.220. Therefore, LEAs may not exclude children suspected of having certain disabilities, such as those with mild or moderate disabilities, from their Child Find activities. This is so, regardless of whether state laws or policies specify which children parentally placed at private schools suspected of having certain disabilities must be evaluated.

OSEP ? 6

Once parentally placed private school children suspected of having disabilities under Part B are identified, are the requirements applicable to evaluations of such children the same as requirements applicable to other children suspected of having disabilities?

Yes. Evaluations of all children suspected of having disabilities under Part B, regardless of whether their parents have chosen to enroll them in private schools, must be conducted within a reasonable period of time in accordance with requirements at 34 C.F.R. §§300.532-300.535 of the Part B regulations, and the parents must give their informed consent to conduct the evaluation. 34 C.F.R. §300.505(a)(i). Section 300.532 of the Part B regulations sets out minimum evaluation procedures. Among other requirements, evaluations conducted under Part B can be accomplished through tests and other evaluation materials that must be selected and administered so as not to be discriminatory on a racial or cultural basis, and must be provided in the child's native language or other mode of communication unless it clearly is not feasible to do so. 34 C.F.R. §300.532(a)(1)(i)-(ii).

No single procedure can be used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child. 34 C.F.R. §300.532(f). Also, the child must be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. 34 C.F.R. §300.532(g). A review of existing data is part of both the initial evaluation, if appropriate, and a reevaluation. This would include evaluations and information provided by the parents of the child. 34 C.F.R. §300.533(a).

OSEP ? 7

Following the evaluation, are the requirements the same for parentally placed private school children as for other children who have been evaluated under Part B?

As with public school children, following the initial evaluation, an eligibility determination must be made by a group of qualified professionals and the child's parents, and this group must determine whether the child is a child with a disability as defined in Part B of the Act. 34 C.F.R. §300.534(a)(1). The public agency must provide the parent a copy of the evaluation report and the documentation of the eligibility determination. 34 C.F.R. §300.534(a)(2). In making the eligibility and placement determination, that is, in determining whether the child is a child with a disability and what the child's educational needs are, the public agency must draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, and ensure that information obtained from all of those sources is documented and carefully considered. 34 C.F.R. §300.535(a).

OSEP ⑧

Following the initial determination that a parentally placed private school child is an eligible child with a disability under Part B, must the public agency develop an IEP for the child?

If a determination is made that the child needs special education and related services, the general rule in 34 C.F.R. §300.535(b) is that an IEP must be developed for the child in accordance with 34 C.F.R. §§300.340-300.350, with one important exception. If the parents make clear their intention to enroll their child at a private school and that they are not interested in a public program or placement for their child, the public agency need not develop an IEP for the child. If the parents choose not to accept the public agency's offer to make FAPE available to their child, the public agency still must include the child in its eligible population of parentally placed private school children with disabilities whose needs must be considered and addressed in accordance with 34 C.F.R. §§300.450-300.462 of the Part B regulations.

OSEP ⑨

Are public agencies required to conduct periodic reevaluations of parentally placed private school children with disabilities, and if so, of which parentally placed private school children?

Yes. The requirements for reevaluations that are applicable to children with disabilities served at public agency programs or at public agency placements at private schools apply equally to parentally placed private school children with disabilities. Part B requires public agencies to conduct reevaluations of a child with a disability, if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation, but at least once every three years. Before additional assessments are conducted, parents must give informed consent. 34 C.F.R. §300.536.

OSEP ⑩

Can expenditures for reevaluations be considered in determining whether a public agency has met the expenditure requirements for services for parentally placed private school children with disabilities?

No. A reevaluation, as a part of Child Find, must be conducted at no cost to parents, and expenditures for reevaluations may not be considered in determining whether an LEA has met the requirement at 34 C.F.R. §300.453(a) regarding expenditures for services for parentally placed private school children with disabilities. 34 C.F.R. §300.453(c). The three-year reevaluation requirement applies to all eligible parentally placed private school children with disabilities, even to those parentally placed private school children with disabilities who are not currently receiving special education or related services from a public agency in connection with a parental private school placement. It is essential for public agencies to ensure that required reevaluations of all parentally placed private school children with disabilities are conducted because they provide current data for use in the annual count of the total number of eligible parentally placed children with disabilities residing in the LEA's jurisdiction. This annual count of eligible parentally placed private school children is used in calculating the proportionate share of funds that must be expended on services for this population of children.

OSEP ?⑪

Which LEA is responsible for Child Find and in meeting requirements for reevaluation if the private school the child attends is located outside of the LEA of the child's parents' residence?

SEAs and, consistent with state policy, LEAs, are responsible for ongoing efforts to locate, identify, and evaluate all children residing in the state who are suspected of having disabilities under Part B, so that FAPE is made available to all eligible children. 34 C.F.R. §§300.121, 300.125, and 300.220. Generally, as a matter of state law, children are considered to reside in the home of their parents even if they physically do not live there. This would mean that if a child attends a private school located in an LEA (either in the same state or in another state) other than the LEA in which the child's parents reside, the LEA in which the child's parents reside generally would be responsible for Child Find, as well as ensuring that required reevaluations are conducted, unless the state assigns that responsibility to another entity. An LEA has flexibility as to how it ensures these responsibilities are met. For example, it may assume the responsibility itself, contract with another public agency, or make other arrangements. If the LEA through Child Find identifies a child as a child with a disability, and is not the entity responsible for Child Find, that LEA should notify the resident LEA of the child's parents so that required evaluations can occur.

OSEP ?⑫

Do parents who disagree with a public agency's Child Find determination with respect to their parentally placed private school child have any recourse?

Yes. Parents may use the Act's due process procedures at 34 C.F.R. §§300.504-300.515 regarding issues related to the identification and evaluation of children under Part B. 34 C.F.R. §300.457(b). This would include disputes regarding Child Find, including individual evaluations, of children residing in the LEA's jurisdiction whose parents choose to enroll them in private schools. For example, disagreements between parents and school districts involving the child's eligibility for special education and related services, an LEA's refusal to conduct an evaluation or reevaluation of an individual parentally placed private school child, or an LEA's refusal to conduct a requested evaluation or reevaluation of an individual parentally placed private school child within a reasonable period of time, are all issues that could be raised in a due process hearing. In addition, an organization or individual may file a signed written complaint in accordance with the state complaint procedures at 34 C.F.R. §§300.660-300.662 of the Part B regulations, alleging that an SEA or LEA has violated the applicable Child Find requirement, including individual evaluation and reevaluation requirements.

OSEP ? ⑬

If parents reside in LEA A and enroll their child with a disability at a private school located in LEA B, which LEA is responsible for locating and evaluating that child, including that child in its annual count of eligible parentally placed private school children with disabilities that is conducted for determining the expenditure requirement, and for determining whether the child should receive services under Part B?

The LEA of the parent's residence generally would be responsible for Child Find, unless the state assigns that responsibility to some other entity. 34 C.F.R. §§300.125 and 300.220. If the non-resident LEA identifies a child as a child suspected of having a disability, the non-resident LEA should notify the LEA of the parent's residence so that appropriate evaluations can occur.

The LEA in which the child's parents reside would also be responsible for including the child in the count of eligible parentally placed private school children with disabilities, regardless of whether the child has been designated to receive services from that LEA. 34 C.F.R. §300.453. Through consultation conducted in accordance with 34 C.F.R. §300.454, the LEA of the parent's residence must consider the needs of parentally placed private school children with disabilities residing in the agency's jurisdiction, even though those students have been enrolled by their parents in private schools located outside of the district's boundaries. The LEA of the parent's residence, however, after consultation with representatives of parentally placed private school children, could elect not to serve those children in light of the available funds that must be expended on services for this population of children.

OSEP ? ㊵

If parents choose to enroll their child with a disability at a private school because of their preference for the private school, are there any circumstances in which a public agency would be required to make FAPE available to such a child in the future?

The public agency must include these children in its eligible population of parentally placed private school children with disabilities whose needs must be considered in accordance with 34 C.F.R. §§300.450-300.462 of the Part B regulations.

In addition, as is true for other children with disabilities, the public agency must evaluate every parentally placed private school child with a disability at least every three years in accordance with the requirements of 34 C.F.R. §§300.532-300.533 to determine a child's continued eligibility for special education and related services. If the parents withdraw their child with a disability from the private school placement that they have selected and return their child to the public school, the public agency again must make FAPE available to the child either in the public agency or a public agency placement at another public school or at a private school.

QUESTIONS AND ANSWERS: ANNUAL EXPENDITURES

OSEP ? ⑭ ***How is the proportionate share for expenditures for services for parentally placed private school children with disabilities calculated?***

IDEA confirms the Department's longstanding interpretation that each LEA must expend, during the grant period, on the provision of special education and related services for the parentally placed private school children with disabilities residing in the LEA's jurisdiction, an amount that is equal to—

> *(1) a proportionate share of the LEA's subgrant under section 611(g) of the Act for children with disabilities aged 3 through 21. This is an amount that is the same proportion of the LEA's total subgrant under section 611(g) of the Act as the number of parentally placed private school children with disabilities aged 3 through 21 residing in the LEA's jurisdiction is to the total number of children with disabilities in the LEA's jurisdiction aged 3 through 21; and*
>
> *(2) a proportionate share of the LEA's subgrant under section 619(g) of the Act for children with disabilities aged 3 through 5. This is an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the total number of parentally placed private school children with disabilities aged 3 through 5 residing in the LEA's jurisdiction is to the total number of children with disabilities in the LEA's jurisdiction aged 3 through 5.*
>
> *20 U.S.C. §1412(a)(10)(A)(i)(I); 34 C.F.R. §300.453(a).*

Consistent with this statutory requirement and the final Part B regulation implementing this requirement, annual expenditures for parentally placed private school children with disabilities are calculated based on the total number of children with disabilities residing in the LEA's jurisdiction eligible to receive special education and related services under Part B, as compared with the total number of eligible parentally placed private school children with disabilities residing in the LEA's jurisdiction. 34 C.F.R. §300.453(a). This ratio is used to determine the proportion of the LEA's total Part B subgrants under section 611(g) for children aged 3 through 21, and under section 619(g) for children aged 3 through 5, that is to be expended on services for parentally placed private school children with disabilities residing in the LEA's jurisdiction.

The following is an example of how the proportionate share is calculated:

> *Number of eligible children in public schools = 300*
>
> *Number of eligible children in private school = 20*
>
> *Total number of eligible children residing in the jurisdiction of the LEA = 320*
>
> *The number of children served was: 300 public school children + 5 private school children = 305*
>
> *Federal flow-through funds to School District is $152,500*
>
> *Using this formula, there are 20 eligible parentally placed private school children within a total number of 320 eligible public and private school children. The number of eligible parentally placed private school children (20) divided by the total number of eligible public and pri-*

> *vate school children (320) indicates that 6.25 percent of the LEA's subgrant, or $9,531.25, must be spent for the group of parentally placed children residing in the LEA and placed by their parents in private schools.*

A graphic representation of the above description on how the proportionate share is calculated is provided in **Sidebar 5** (page 58), *Proportionate Share Calculation for Parentally Placed Private School Children with Disabilities*.

OSEP ? ⑮

Is the proportionate share based on the number of children with disabilities receiving special education or related services in accordance with a services plan, or ***on the total number of eligible private school children with disabilities residing in the LEA's jurisdiction?***

The proportionate share is determined based on the total number of eligible parentally placed private school children with disabilities residing in the LEA's jurisdiction, and is not limited to the number of those children receiving special education or related services in accordance with a services plan.

OSEP ? ⑯

When must LEAs conduct the annual count of eligible ***parentally placed private school children with disabilities residing in their jurisdiction (the count required at §300.453)?***

SEAs must decide, on a statewide basis, (either December 1 or the last Friday in October) the date on which their LEAs will conduct the annual count of the total number of eligible parentally placed children with disabilities. LEAs and SEAs are already counting children with disabilities who are receiving special education and related services either on December 1 or the last Friday in October of each year, and the SEA must conduct the annual count of eligible parentally placed private school children with disabilities on the same date. Using the same date on a statewide basis should reduce the amount of double counting of private school children with disabilities who move from one location to another, and should give states the same flexibility they have with regard to counting other children with disabilities who are receiving services under Part B of the Act.

OSEP ? ⑰

In meeting the requirement to expend a proportionate share of available federal funds on services for parentally placed private school children with disabilities residing in their jurisdiction, may LEAs use funds other than federal funds?

Yes. Section 612(a)(10)(A)(i) describes the minimum amount that must be spent on services for parentally placed private school children with disabilities and does not specify that only federal funds can be used to satisfy this obligation. Thus, if a state or LEA uses other funds other than Part B funds to provide special education and related services to parentally placed private school children with disabilities, those funds can be considered in satisfying the expenditure requirements of 20 U.S.C. §1412(a)(10)(A)(i)(I) and 34 C.F.R. §300.453, so long as the services are provided in accordance with the other provisions of 34 C.F.R. §§300.452-300.462. See Analysis of Comments and Changes, Attachment 1 to the final regulations, 64 Fed. Reg. at 12603 (Mar. 12, 1999).

OSEP ? ⑱

May state or local funds be used to provide services to parentally placed private school children with disabilities in excess of the services provided for this population of children with the proportionate share of available funds?

Yes. SEAs and LEAs are not prohibited from providing services to parentally placed private school children with disabilities in excess of those provided with the proportionate share of Part B funds, if doing so is consistent with state law or local policy. 34 C.F.R. §300.453(d) and *Analysis of Comments and Changes*, published as Attachment 1 to the final regulations, 64 Fed. Reg. at 12603 (Mar. 12, 1999).

OSEP ? ⑲

How are Part B funds distributed now that the permanent funding formula is in effect?

Until the appropriation under section 611(j) of the Act exceeds $4,924,672,200 under the funding formula applicable to the Grants to States program, authorized by section 611(g) of IDEA, funds were allocated to states under the interim formula. 34 C.F.R. §300.703(b). Under the interim formula, funds were allocated to states, and through them to LEAs, based on an annual count of children with disabilities receiving special education and related services on the count date, and, in the case of parentally placed private school children with disabilities, those receiving special education or related services on the count date. Now that the appropriation under section 611(j) of the Act exceeds $4,924,672,200, funds will be allocated to states, and through them to LEAs, under the permanent formula. Thus, the permanent formula will be used to distribute Part B Grants to States funds to states on or about July 1, 2000, and allocations will no longer be based on an annual count of children receiving special education and related services on the count date. The permanent formula previously has taken effect for the Preschool Grants Program. Under the permanent formula, it will still be important for SEAs and LEAs to maintain accurate data about the number of parentally placed private school children with disabilities receiving special education or related services and the total number of eligible parentally placed private school children with disabilities.

The State allocation under the permanent formula to each LEA that has established its eligibility under section 613 of the Act is the total of three amounts:

- A base payment, that is, the amount the agency would have received for the fiscal year prior to the first fiscal year that the appropriation under section 611(j) of the Act exceeds $4,924,672,200, had the state allocated 75 percent of its grant to

LEAs. 34 C.F.R. §300.712(a);

- The population payment, which consists of 85 percent of any remaining funds distributed on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within each agency's jurisdiction. 34 C.F.R. §300.712(b)(3)(i); and
- 15 percent of any remaining funds allocated to eligible LEAs in accordance with their relative numbers of children living in poverty, as determined by the SEA. 34 C.F.R. §300.712(b)(3)(ii); 34 C.F.R. §300.712(b)(3).

Therefore, funds generated by LEAs for FFY 1999 for parentally placed private school children with disabilities who were receiving special education or related services under 34 C.F.R. §§300.452-300.462 that meet state standards on the count date were included in calculating an LEA's base payment under the permanent formula. 34 C.F.R. §300.453 (a)(3).

OSEP ? 20

Under the permanent formula, will it still be necessary to conduct an annual count of parentally placed private school children with disabilities?

Yes. The count still will be required under 34 C.F.R. §300.453 of the Part B regulations for purposes of determining the total number of eligible parentally placed private school children with disabilities residing in the LEA's jurisdiction. This information is required for purposes of calculating the proportionate share that an LEA is required to expend on an annual basis for the provision of special education and related services for its population of parentally placed private school children with disabilities. In addition, the count of children served that is conducted under 34 C.F.R. §300.751 will still be required.

OSEP ? 21

In the permanent formula, 85 percent of funds above the base payment are distributed on the basis of the "relative numbers of children enrolled in public and private elementary and secondary schools within each agency's jurisdiction." What does this mean, since some parentally placed private school children live in the jurisdiction of the LEA but are enrolled in a private school outside of the LEA's jurisdiction?

In allocating 85 percent of any remaining funds to LEAs based on the relative numbers of children enrolled in public and private elementary and secondary schools within each agency's jurisdiction, states must apply on a uniform basis across all LEAs the best data that are available to them. 34 C.F.R. §300.712(b)(3)(iii). It is within the state's discretion to determine whether the LEA where the private school is located or the LEA of the parent's residence should include the child in its private school enrollment count.

A state could determine, for example, that a child whose parents reside in LEA A and attends a private school located in the boundaries of LEA B is enrolled in LEA B in calculating the percentage of funds allocated to an LEA based on the relative numbers of children enrolled in public school and private elementary and secondary schools in the LEA's jurisdiction. While states have flexibility in this area, a uniform rule must be applied on a statewide basis. These children would then need to be in the group of parentally placed children with disabilities whose needs must be considered by the LEA in determining which parentally placed private school children with disabilities will be served and the types and amounts of services to be provided to eligible children.

Information-Building Practices

The following practices are offered to assist stakeholders in building knowledge about Child Find provisions in IDEA related to parentally placed private school children with disabilities. In all cases, the practices presented are only suggestions and/or illustrations of what other stakeholders have found useful in implementing Child Find provisions for parentally placed private school children with disabilities.

The practices included in this section address general information needs related to Child Find, including becoming familiar with the relevant IDEA Child Find provisions, disseminating information, and facilitating consultation on Child Find and Child Count through ongoing communication. Practices are organized as follows:

Understanding IDEA and the Child Find Provisions

- Practice 2-1: Review the IDEA Child Find Provisions.
- Practice 2-2: Understanding the Special Education Process.
- Practice 2-3: Frequently Asked Questions About the Special Education Process.
- Practice 2-4: Review Current Child Find Procedures.
- Practice 2-5: Review Child Count and Expenditures in Your Jurisdiction.

Disseminating Information

- Practice 2-6: Developing Public Awareness Announcements.
- Practice 2-7: Preparing Correspondence for Private School Representatives.

Enhancing Consultation on Child Find and Child Count Through Ongoing Communication

- Practice 2-8: Making Sure the Distribution List Is Comprehensive.
- Practice 2-9: Organizing Information: Tips for Families.
- Practice 2-10: Providing Input on Child Find: Collaborative Planning.
- Practice 2-11: A More Collaborative Way?
- Practice 2-12: What Can I Do If I Disagree with an Action Taken as Part of Child Find?
- Practice 2-13: Finding Positive Approaches through Collaboration.

Practice 2-1 Review the IDEA Child Find Provisions

Regulations are written to provide clarification of the requirements. Familiarize yourself with the IDEA Regulations on Child Find and expenditures. You can do this by completing one or more of the following activities:

1) **Explore provisions found in 34 C.F.R. §§300.451-300.453 related to Child Find, Child Count, and Expenditures**. Use one of the following tools:

- **ILIAD/ASPIIRE web site**. The law and final regulations are at **www.ideapractices.org**. Download or search them there.
- ***Discover IDEA CD 2002***. The law and final regulations are available in electronic format, complete with search mechanisms. *Note*: The law also is found on the previous version (2000) of the CD. Available from: Council for Exceptional Children, 1110 N. Glebe Road, Arlington, VA 22201, 888-232-7733 (toll free), 866-915-5000 (TTY toll free), **www.cec.sped.org**. Take advantage of the enhanced search opportunities included on the CD (e.g., Senate Committee discussion).

Consider how use of these tools can enhance one's understanding of the provisions. Take advantage of the enhanced search opportunities by exploring additional information related to the final regulations (e.g., Senate Committee discussion).

2) **Review the provisions cited in the OSEP Memorandum**. The primary IDEA Regulations related to parentally placed private school children with disabilities are found in 34 C.F.R. §§300.450-300.462. However, many of the answers in the OSEP Memorandum refer to other IDEA Regulations, including:

- 34 C.F.R. §300.121 Free appropriate public education.
- 34 C.F.R. §300.125 Child Find.
- 34 C.F.R. §300.220 Consistency with state policies.
- 34 C.F.R. §§300.340-300.350 Individualized Education Programs.
- 34 C.F.R. §300.504 Procedural safeguards notice.
- 34 C.F.R. §300.505 Parental consent.
- 34 C.F.R. §300.506 Mediation.
- 34 C.F.R. §300.507 Impartial due process hearing: parent notice.
- 34 C.F.R. §300.508 Impartial hearing officer.
- 34 C.F.R. §300.509 Hearing rights.
- 34 C.F.R. §300.510 Finality of decision; appeal; impartial review.
- 34 C.F.R. §300.511 Timelines and convenience of hearings and reviews.
- 34 C.F.R. §300.512 Civil action.
- 34 C.F.R. §300.513 Attorneys' fees.
- 34 C.F.R. §300.514 Child's status during proceedings.
- 34 C.F.R. §300.515 Surrogate parents.
- 34 C.F.R. §300.532 Evaluation procedures.
- 34 C.F.R. §300.533 Determination if needed evaluation data.
- 34 C.F.R. §300.535 Procedures for determining eligibility and placement.
- 34 C.F.R. §300.536 Reevaluation.
- 34 C.F.R. §§300.620-300.624 Use of Funds.
- 34 C.F.R. §300.703 Allocations to States.
- 34 C.F.R. §300.712 Allocations to LEAs.
- 34 C.F.R. §300.751 Annual report of children served—information required in the report.

Using the tools referenced in this practice, explore these provisions as well. Note how understanding of these additional provisions increases one's understanding of the IDEA Regulations found in 34 C.F.R. §§300.450-300.462.

3) **Test your knowledge**. A short assessment is found in **Appendix 2-B**, *Test Your Knowledge of Child Find and Expenditures*. The assessment is based on the OSEP Memorandum questions and answers and may be used as a pretest-posttest or knowledge check. The answer key is as follows:

(1) Yes: See OSEP Question 1.

(2) No: See OSEP Question 2.

(3) Yes: See OSEP Question 3.

(4) No: See OSEP Question 5.

(5) Yes: See OSEP Question 6.

(6) Yes: See OSEP Question 7.

(7) No: See OSEP Question 8.

(8) Yes: See OSEP Question 9.

(9) No: See OSEP Question 10.

(10) Yes: See OSEP Question 12.

(11) Yes: See OSEP Question 17.

(12) Yes: See OSEP Question 18.

If working in a group setting, the assessment items may be used in the context of a review game, such as *Baseball, Jeopardy, or Who Wants To Be a Millionaire?*

Practice 2-2 Understanding the Special Education Process

Once children are identified who are suspected of having disabilities under IDEA Part B, local education agencies must have procedures for conducting, at no cost to parents, IDEA Part B evaluations of such children residing in their jurisdiction within a reasonable period of time and without undue delay. Following the initial evaluation, an eligibility determination must be made by a group of qualified professionals and the child's parents, and this group must determine whether the child has a disability as defined in IDEA Part B. If a determination is made that the child needs special education and related services, the school district must develop an IEP for the child, unless the parents make clear their intention to enroll their child at a private school and that they are not interested in a public program or placement for their child.

Prior to Child Find activities, parents may be unfamiliar with special education. To support parents in understanding the special education process, it is helpful to have something in writing that they can review.

Activity

1) Some districts have developed information for families as part of their special education policies and procedures. Check to see if your local district and/or private school has produced such a document. If so, review the document to determine if it is:

- Family-friendly.
- Clear and concise.
- Accurate.

If your district and/or school does not have a document, review a document from another district. For example, the Portland Public Schools (**www.pps.k12.or.us**) has included a flowchart in its operations procedures that provides a step-by-step visual of the special education process in easy-to-understand terms.

2) The Families and Advocates Partnership for Education (FAPE) (**www.fape.org**) at the PACER Center has produced ***Understanding the Special Education Process: An Overview for Parents***. The family-friendly three-page fact sheet (available in English, Spanish, Hmong, and Somali) provides a basic overview of the special education process from the evaluation stage to the IEP stage. The fact sheet is available on the FAPE web site or through a link on the ILIAD/ASPIIRE web site at **www.ideapractices.org**. [Or contact FAPE at the Technical Assistance Alliance for Parent Centers, PACER Center, 8161 Normandale Boulevard, Minneapolis, MN 55437, 888-248-0822 (toll free), 952-838-0190 (TTY), **www.pacer.org**.]

Download and review the document. Consider the following:

- What makes the fact sheet family friendly?
- How might it be used with families?
- How might it be presented to families?
- What additional information might be added to aid families' understanding?
- What are the benefits of having such a document produced in different languages?

3) Make a plan to prepare a document for families in your jurisdiction. What will you include? How will you ensure that it is family friendly?

Practice 2-3

Frequently Asked Questions About the Special Education Process

As a result of enacting the Child Find process, families may call administrators, teachers, parent leaders, or others with specific questions related to special education. In preparation, it is helpful to brief yourself on the questions most often asked by parents.

Resource

The National Information Center for Children and Youth with Disabilities (NICHCY) has produced **Questions Often Asked By Parents About Special Education Services** (1999). The 12-page briefing document presents a series of questions that parents often ask about special education services. The questions and answers are organized into the following categories:

- General special education.
- Evaluation.
- Eligibility for special education and related services.
- Writing an IEP.
- Reevaluation.
- Other questions (e.g., due process, accountability).

A number of questions and answers in the briefing paper speak directly to helping parents understand special education, related services, and educational placement for a child with a disability, such as:

- What is special education?
- What are related services?
- How are placement decisions determined?

The document may be downloaded from the NICHCY web site at **www.nichcy.org**. Or contact NICHCY at P.O. Box 1492, Washington, DC 20013, 800-695-0285 (V/TTY).

If you are working with a group, consider using a role play format to engage participants in applying their knowledge of special education and related services. Present different scenarios (see **Appendix 2-C**, *Explaining Special Education and Related Services: Role Play Scenarios* for examples, or create your own to match the needs of your group members) for the role plays. In preparation for the role play, have participants review the information in the briefing paper. Allow time for participants to prepare for the role play. Role plays may be presented to the entire group or in small groups. Assign observers for each role play who provide feedback on the clarity and accuracy of information given and comment on the nature of the communication.

Practice 2-4

Review Current Child Find Procedures

In carrying out Child Find for parentally placed private school children, SEAs and LEAs should undertake activities similar to those undertaken for their publicly enrolled or publicly placed children, such as:

- Distributing informational brochures.
- Providing regular public service announcements.
- Staffing exhibits at health fairs and other community activities.
- Creating direct liaisons with private schools.

Review the Child Find procedures in your jurisdiction. [Gather copies of documents and/or schedule of Child Find activities. To find the Child Find procedures, contact the local school district and request a copy. Some districts may include this information on their web sites.] Consider the following:

- Are the procedures adequate for locating parentally placed private school children with disabilities? If so, identify what seems to be working and why. If not, what might enhance results?
- Do the materials address the information needs of families whose children may be attending private schools? Are the materials suitable for dissemination throughout your network?
- To what extent have private school representatives in the jurisdiction been tapped for input? Are there sectors of the private school community who are absent from the procedures? How might they be contacted?

If working in a group, consider drafting a Child Find plan for your district. What would it look like? What would it include?

Practice 2-5

Review Child Count and Expenditures in Your Jurisdiction

Each year, the LEA must conduct a child count on December 1 or the last Friday of October. Child Count is used to determine the amount that the LEA must spend on providing special education and related services to private school children with disabilities in the next subsequent fiscal year.

To provide a historical look at the data in your jurisdiction, contact the local school district and ask for data on Child Count and expenditures for as many previous years as data are available. Also, contact the state and ask for the data related to your jurisdiction and the rest of the state. Make a chart and compare:

- Annual counts (if available).
- Data in your jurisdiction with others in the state.

As you review the data, consider the following:

- If data show an increase or decrease in Child Count for any given year, what might explain the change?
- Does the Child Count number appear accurate?
- How might you use the data on expenditures to encourage constituents to respond to Child Count efforts?

Practice 2-6

Developing Public Awareness Announcements

School districts are required to locate and identify all children in their jurisdiction who may have a disability. This includes surveying all children in the community.

Public access cable television, radio, and print news (e.g., newsletter, church bulletin, newspaper) are some of the mechanisms that may be used to communicate with the community at large about Child Find.

Activity: Create a Press Release

Many school districts prepare a press release describing Child Find activities. The press release, which is no more than two pages, provides information such as:

- Contact person and information.
- Headline.
- Description of activity (e.g., who, what, when, where, and why).
- Background.

[See **Appendix 2-D**, *Sample Press Release Child Find*, for a sample and activity.]

Press releases are provided to local newspapers, attached to correspondence sent to key stakeholders (see Practice 2-7 in this section), and given to newsletter editors (e.g., church bulletins, private school newsletters). From the press release, other announcements— such as radio, television, and space ads—may be developed.

When developing the press release, pay particular attention to how it will inform parents of children who may be attending or planning to attend private schools.

Practice 2-7

Preparing Correspondence for Private School Representatives

Child Find is a collaborative effort among the public schools, private schools, and the community. To solicit participation, consider preparing correspondence that:

- Makes an introduction.
- Explains Child Find.
- Invites private school participation.
- Provides contact and follow-up information.

Appendix 2-E, *Sample Correspondence to Private Schools*, contains an example of a letter and activity.

Although the focus in this practice is on the public school making the initial contact, private school personnel also may initiate the contact. In this case, the private school representative may include in such a letter the following information:

- Introduction.
- Summary of the Child Find consultation requirement.
- An offer to participate in helping the school district determine how and when to carry out Child Find so that it addresses children who are attending or planning to attend private schools.
- Contact and follow-up information.

Practice 2-8 Making Sure the Distribution List Is Comprehensive

The success of Child Find depends on making sure that information is distributed to all stakeholders. Having an up-to-date and comprehensive list of dissemination routes can help streamline the process.

Private school representatives often have insights as to how certain sectors of the community may be reached. Consider the following activities to enhance communication about Child Find activities throughout the community:

- **Share the distribution list**. School districts can ask private school representatives to review the dissemination plan and make suggestions for enhancing it.
- **Create a survey**. Prior to the start of the school year, school districts may send a letter to private school representatives and other community organizations and include a survey that asks individuals to check relevant contacts and list new ones.
- **Ask to see the distribution list**. Private school representatives may request to see the list of private schools that currently receive information from the public school district about Child Find. Make a list of all schools and contact information missing from the list and send it on to the public school district representative with a note requesting that records be updated.
- **Make suggestions**. Private school personnel can contact the public school district with a list of ways they might support the Child Find activity.
- **Compare the list to that in the Private School Locator CD-ROM**. The National Center for Education Statistics has data on CD-ROM on private elementary and secondary schools. The information on the CD-ROM is the same information as can be found on the web-based Private School Locator. The locator can be found at **nces.ed.gov/surveys/pss/privateschoolsearch/**. To obtain a single free copy of the CD-ROM, contact ED PUBS at 877-4ED-PUBS.

Practice 2-9 Organizing Information: Tips for Families

Once located, a private school child may be identified and evaluated for a disability. Private school and public school personnel can support parents in this process by providing strategies for gathering and organizing information.

Appendix 2-F, *School Referral for Special Education Eligibility*, contains a series of tools prepared by Pamela Allen, Director of Educational Services to support the Archdiocese of Washington (serving children in Washington, DC and Southern Maryland), for use with parents whose children attend private schools. Review the following:

- **Parent Checklist**. This form is provided to the parents to help them move through the process used in the Archdiocese of Washington Catholic schools. It contains steps to be completed.
- **School Referral Cover Sheet**. This form is completed by the parents and private school personnel. It contains general information about the child.
- **Initial Referral Checklist**. This checklist is used to help the parents gather the necessary information required by the school district. [Note: The information on this sample form is tailored to the Washington, DC public schools. Different information may be collected by the school district in your area.] At the parent's request, private school representatives may review the information with the parent.
- **Parent Referral to LEA**. This form is used as a cover sheet for the parent when submitting information to the public school.

Parents should submit a photocopy of the information to the school district. Never submit original documents, except for cover letters and forms requiring signatures. In these latter cases, parents should retain a photocopy of these items. Also, it is a good idea to obtain a signature from the recipient (e.g., registered mail receipt, signature on the parent's photocopy if hand delivered).

After the materials have been submitted, parents will participate in the identification and evaluation process. In addition to being familiar with the special education process and IDEA Regulations (see Practices 2-2 and 2-3), parents may enhance their collaboration and participation with public school personnel in the following ways:

- **Keep a notebook**. The notebook might contain all forms submitted plus: copies of letters, reports, evaluations, or other materials received from the public school; notes of conversations with public school officials (e.g., date, time, and what was said).
- **Ask for a copy of the public school special education policies and procedures**. Become familiar with it. Feel free to take it to formal meetings and refer to it if there are questions.
- **Identify an advocate**. Consider taking a friend, family member, or advocate to public school meetings.
- **Keep records of meetings**. Ask for introductions at meetings. Keep a record of who attended the meeting and what was promised or decided.
- **Provide positive feedback**. Let individuals know if and how they have been helpful.

Practice 2-10

Providing Input on Child Find: Collaborative Planning

In determining how and when to carry out Child Find, LEAs must consult with appropriate representatives of parentally placed private school students with disabilities. Collaboration may be enhanced by face-to-face meetings in which all stakeholders believe they have made a meaningful contribution and that their input is valued by others.

Challenge. Plan an agenda for a one-hour meeting at which private school and public school representatives share ideas about how and when to carry out Child Find. The goals are:

- Obtain ideas to be used in determining how and when to carry out Child Find.
- Establish a positive working relationship between private school and public school personnel.
- Identify private school representatives willing to assist with other IDEA-related tasks.

If working with a group, ask participants to develop their agendas with three or four others. When presenting their work, ask participants to comment on how their agenda items address the three goals of the meeting. To activate participants' prior knowledge, consider the following warm-up activity:

- Put yourself in the role of a private school representative. If invited to a meeting, what apprehensions might you have?
- Put yourself in the role of a public school district representative. If hosting a meeting, what apprehensions might you have?
- Put yourself in the role of a private school representative. What things might enhance your participation?
- Put yourself in the role of a public school representative. What things might enhance your participation?
- Record responses. Sort the responses into two categories: strategies or procedures and interpersonal processes.
- Encourage participants to use results of this activity in planning their agendas.

Practice 2-11

A More Collaborative Way?

Collaboration is a style or approach in which all parties engage in shared decision making as they work toward common goals. Contributions are valued equally and there is parity among the parties.

Consultation can be enhanced when all parties work collaboratively toward the common goal in this case, of suggesting how and when Child Find activities might be conducted.

Consider the following examples:

- The director of a private school receives a letter from the public school district directing him to make a list of students with disabilities or suspected of having disabilities. The response is due by the end of the week. The director is a strong believer in doing everything he can to support educational opportunities for his students. So, even though the director has planned to take a personal leave day later in the week, he cancels his plans to free up time to comply with the school district's request.
- The school districts Child Find coordinator receives a call from a private school director complaining that she was not contacted to provide input. The Child Find coordinator follows up the call by making necessary changes in the process and sharing those changes with the private school director.
- A private school director decides not to help with the Child Find activities since she believes that the children served in her school do not benefit from the services provided by the public school. Noting that no information was received from the private school in question, the Child Find coordinator makes a personal call to the private school director to encourage participation.
- A director of a private school makes sure that Child Find information is disseminated throughout his network of families. He sends a photocopy of the various newsletter articles and correspondence he prepared to the school district with a suggestion that other private school personnel may benefit from his experiences. It has been three months and he has not heard back from the public school.

In each of the examples, collaboration is not present. Either independently or in a small group, reflect on the following:

- What is supporting or undermining collaboration in the example?
- How might the situation be changed to foster improved collaboration?

* * *

Practice 2-12

What Can I Do If I Disagree with an Action Taken as Part of Child Find?

With regard to parentally placed private school students with disabilities, due process procedures apply only to Child Find. Under the Child Find provision, parents of parentally placed private school students may use the due process procedures regarding issues related to the identification and evaluation of students. In addition, an organization or individual may file a signed written complaint in accordance with the state complaint procedures alleging that an SEA or LEA has violated applicable Child Find requirements. On the other hand, the due process procedures do not apply to complaints that an LEA has failed to meet applicable requirements for the provision of services for parentally placed private school students with disabilities since these students do not have an individual entitlement to services.

To learn more about due process, consider the following practices.

1) **Know your rights if you believe that the LEA has failed to meet its Child Find obligations, including evaluation and determining eligibility**. Review relevant IDEA Regulations, such as C.F.R. §300.450-462 (particularly §300.457) and §300.660-662. In addition, familiarize yourself with the following regulations:

- 34 C.F.R. §300.504 Procedural safeguards notice.
- 34 C.F.R. §300.505 Parental consent.
- 34 C.F.R. §300.506 Mediation.
- 34 C.F.R. §300.507 Impartial due process hearing: parent notice.
- 34 C.F.R. §300.508 Impartial hearing officer.
- 34 C.F.R. §300.509 Hearing rights.
- 34 C.F.R. §300.510 Finality of decision; appeal; impartial review.
- 34 C.F.R. §300.511 Timelines and convenience of hearings and reviews.
- 34 C.F.R. §300.512 Civil action.
- 34 C.F.R. §300.513 Attorneys' fees.
- 34 C.F.R. §300.514 Child's status during proceedings.
- 34 C.F.R. §300.515 Surrogate parents.

In addition, familiarize yourself with your state regulations, as these may afford more protections than IDEA. For more information on state regulations, see Section 4 of this toolkit.

2) **Become familiar with advocacy groups**. Advocacy groups at both the state and national levels may provide relevant information and support. Many of these groups have web sites. Following are two examples:

- Parent Advocacy Coalition for Educational Rights (PACER) Center. [**www.pacer.org**] The web site contains a number of resources (some in languages other than English) related to IDEA and supporting achievement for children with disabilities.
- Technical Assistance Alliance for Parent Centers. [**www.taalliance.org**] The web site has a listing of all parent and training and information centers in the U.S.

Practice 2-13 Finding Positive Approaches Through Collaboration

Kelly Branaman, Special Education Consultant of the Archdiocese of Louisville, KY, shared the following example:

> *In the counties surrounding Louisville, parochial school students benefit from Child Find services provided on the private school site. Oldham County School Corporation conducts all student observations and testing at St. Aloysius School. The familiar environment puts the students at ease, allowing the evaluator to establish positive rapport more easily. Results may reflect a more accurate profile of the student when procedures such as this are taken into consideration in the Child Find process.*

Take a few minutes and reflect on the Child Find processes in your jurisdiction. Consider whether there are ways to modify and/or change the processes to provide greater benefit to the children. Make a plan for sharing your ideas.

If working in a group, share Kelly Branaman's example with the participants. Review several sample Child Find processes and discuss how they might be modified to provide greater benefit to students. If time permits, ask participants to role play a consultation in which private school and public school personnel discuss possible ways to improve the Child Find process.

APPENDIX 2-A

IDEA Child Find Regulations

34 C.F.R. §300.125 Child Find.

(a) General requirement.

(1) The State must have in effect policies and procedures to ensure that—

(i) All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and

(ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.

(2) The requirements of paragraph (a)(1) of this section apply to-

(i) Highly mobile children with disabilities (such as migrant and homeless children); and

(ii) Children who are suspected of being a child with a disability under §300.7 and in need of special education, even though they are advancing from grade to grade.

(b) Documents relating to Child Find. The State must have on file with the Secretary the policies and procedures described in paragraph (a) of this section, including—

(1) The name of the State agency (if other than the SEA) responsible for coordinating the planning and implementation of the policies and procedures under paragraph (a) of this section;

(2) The name of each agency that participates in the planning and implementation of the Child Find activities and a description of the nature and extent of its participation;

(3) A description of how the policies and procedures under paragraph (a) of this section will be monitored to ensure that the SEA obtains-

(i) The number of children with disabilities within each disability category that have been identified, located, and evaluated; and

(ii) Information adequate to evaluate the effectiveness of those policies and procedures; and

(4) A description of the method the State uses to determine which children are currently receiving special education and related services.

(c) Child Find for children from birth through age 2 when the SEA and lead agency for the Part C program are different.

(1) In States where the SEA and the State's lead agency for the Part C program are different and the Part C lead agency will be participating in the Child Find activities described in paragraph (a) of this section, a description of the nature and extent of the Part C lead agency's participation must be included under paragraph (b)(2) of this section.

(2) With the SEA's agreement, the Part C lead agency's participation may include the actual implementation of Child Find activities for infants and toddlers with disabilities.

APPENDIX 2-A

[IDEA Child Find Regulations, continued]

(3) The use of an interagency agreement or other mechanism for providing for the Part C lead agency's participation does not alter or diminish the responsibility of the SEA to ensure compliance with the requirements of this section.

(d) Construction. Nothing in the Act requires that children be classified by their disability so long as each child who has a disability listed in §300.7 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

(e) Confidentiality of Child Find data. The collection and use of data to meet the requirements of this section are subject to the confidentiality requirements of §§300.560-300.577.

(Authority: 20 U.S.C. 1412 (a)(3)(A) and (B))

34 C.F.R. §300.451 Child Find for private school children with disabilities.

(a) Each LEA shall locate, identify, and evaluate all private school children with disabilities, including religious-school children residing in the jurisdiction of the LEA, in accordance with §§300.125 and 300.220. The activities undertaken to carry out this responsibility for private school children with disabilities must be comparable to activities undertaken for children with disabilities in public schools.

(b) Each LEA shall consult with appropriate representatives of private school children with disabilities on how to carry out the activities described in paragraph (a) of this section.

(Authority: 20 U.S.C. 1412(a)(10)(A)(ii))

APPENDIX 2-B

Test Your Knowledge of Child Find and Expenditures

Answer each question with either a "Yes" or a "No."

___ 1) Do general IDEA Child Find requirements apply to private school children, including religious school children?

___ 2) Can amounts expended for Child Find, including individual evaluations, be deducted from the required amount of funds to be expended on services for parentally placed private school children with disabilities?

___ 3) Must Child Find for private, including religious-school children, be comparable to Child Find for public school children?

___ 4) May LEAs restrict their Child Find activities to children with certain disabilities, and exclude from Child Find some children, if the LEA determines, through consultation, that it will offer its population of parentally placed private school children with disabilities only certain specified services?

___ 5) Once parentally placed private school children suspected of having disabilities under Part B are identified, are the requirements applicable to evaluations of such children the same as requirements applicable to other children suspected of having disabilities?

___ 6) Following the evaluation, are the requirements for an eligibility determination the same for parentally placed private school children as for other children who have been evaluated under Part B?

___ 7) If a determination is made that the child needs special education and related services, must an IEP be developed for the child—no exceptions?

___ 8) Are public agencies required to conduct periodic reevaluations of parentally placed private school children with disabilities?

___ 9) Can expenditures for reevaluations be considered in determining whether a public agency has met the expenditure requirements for services for parentally placed private school children with disabilities?

Accompanies
Practice 2-1

APPENDIX 2-B

[Test Your Knowledge of Child Find, continued]

___ 10) Do parents who disagree with a public agency's Child Find determination with respect to their parentally placed private school child have any recourse?

___ 11) In meeting the requirement to expend a proportionate share of available federal funds on services for parentally placed private school children with disabilities residing in their jurisdiction, may LEAs use funds other than federal funds?

___ 12) May state or local funds be used to provide services to parentally placed private school children with disabilities in excess of the services provided for this population of children with the proportionate share of available funds?

Accompanies
Practice 2-1

APPENDIX 2-C

Explaining Special Education and Related Services: Role Play Scenarios

Scenario #1

You have been asked to describe special education and related services to parents. This might be in the context of being asked a question by parents in a private meeting or at a parent-teacher meeting.

Scenario #2

You have been asked to provide an overview of special education and related services to a small group of colleagues and/or parents in your school or district. This might be in the context of a staff meeting, a workshop, or a presentation on Child Find to a community group.

Scenario #3

You are at a meeting at which inaccurate information about special education and related services has been stated. The context might be at a conference session, during a general staff meeting, or during a private one-on-one meeting. Your challenge is to provide accurate information.

Accompanies
Practice 2-3

APPENDIX 2-D

Sample Child Find Press Release

Many school districts prepare a press release describing Child Find activities. Following is a sample press release.

For Immediate Release August 30, 2002

Contact: Dr. Chris Jones
Haley School District
888-902-4445
email: cjones@hsd.com

School District Needs Help in Locating Children Who May Have a Disability

Each year on the last Friday of October, Haley School District conducts a state-required count of all children with disabilities living in the district. If you know of a child or adolescent between the ages of birth through 21 whom you suspect may have a disability and who is not currently receiving services from the school district, then the Haley School District wants to hear from you. Children who are attending or planning to attend a private school also are included in this count.

Please help the Haley School District locate children and teenagers who may need services. All information is confidential. There are several ways to contact the school district with this information or to learn more about the activity:

- *Log onto the Haley School District web site at* www.haley.net *and click on Child Find.*
- *Call the school district Child Find office at 888-902-4445.*
- *Visit the school district screening clinic during the month of September on Thursdays from 8 a.m. to 8 p.m. and Saturdays from 9 a.m. to noon at Haley Elementary School at 1110 First Street.*

Accompanies
Practice 2-6

APPENDIX 2-D

[Sample Child Find Press Release, continued]

- *Contact your child's private school or church and ask them to forward the information to the district.*

Child Find is a community-wide effort. The district acknowledges the support of the following private schools who are participating with the district to ensure that all children are located: St. Andrews School, Hill El Academy, Springfield Montessori School, St. Mary of the Mills School, Blackstone Academy, and Blessed Sacrament.

Activity

1) Review the press release. The press release, which is no more than two pages, provides information such as:

- Contact person with information.
- Headline.
- Description of activity (e.g., who, what, when, where, and why).
- Background.

How well does the sample press release provide essential information? How might you improve it? Does it adequately communicate information that would be relevant for parents of children who are attending or planning to attend private schools?

2) Write a press release for your school district. Pay particular attention to how it informs parents of children who are attending or who are planning to attend private schools.

Accompanies
Practice 2-6

APPENDIX 2-D

[Sample Child Find Press Release, continued]

3) Press releases are provided to local newspapers, attached to correspondence sent to key stakeholders, and given to newsletter editors (e.g., church bulletins, private school newsletters). From the press release, other announcements—such as radio, television, and space ads—may be developed. [For samples of these, visit the South Carolina State Department of Education web site at **http://www.sde.state.sc.us/sde/educator/handicap/childfin.htm** and go to Appendix C in the document, *Child Find*]. Based on your press release, create a:

- 10-second radio spot.
- Newsletter article.
- Space ad for newspapers.
- Letter to physicians and other agencies serving families in your community (e.g., libraries, child care organizations, ministers).
- Exhibit for a community fair or event.
- Flyer for a community organization (e.g., recreation center), club (e.g., Boys and Girls Clubs, Lions Club), community agency (e.g., library), or community location (e.g., bulletin boards at local shops, malls, and transportation kiosks).

Accompanies
Practice 2-6

APPENDIX 2-E

Sample Correspondence to Private Schools

Read the following sample letter and answer the questions that follow it:

> *August 1, 2002*
>
> *Dear Director:*
>
> *The Allenshire School District provides special education and related services to children with disabilities. State and federal law requires the district to conduct an annual count of all children with disabilities residing in our community, including those children who are attending or planning to attend private school. I would like your assistance in locating and identifying children and youth (aged birth through 21) who may have or be suspected of having a disability.*
>
> *A meeting with public school and private school representatives to discuss Child Find requirements is scheduled for August 24, 2002 at 4:00 p.m. at the Allenshire Community Recreation Center. Please let me know if you will be able to attend. I can be reached at 888-456-0987 or by email at* **vbm@allenshireps.net**. *Your input is important. If you are unable to attend, please contact me so we can make alternative arrangements.*
>
> *Sincerely,*
>
> *Child Find Coordinator*

Consider the following:

1) How well did the sample letter:

- Make an introduction?
- Explain Child Find?
- Invite private school participation?
- Provide contact and follow-up information?

Accompanies
Practice 2-7

APPENDIX 2-E

[Sample Correspondence to Private Schools, continued]

2) How might you improve the letter? What changes would you make to tailor the letter to your own situation?

3) Review other examples of letters. Find out if your school has a letter it has used previously. Review the letter on the South Carolina Department of Education web site at **http://www.sde.state.sc.us/sde/educator/handicap/childfin.htm** and go to Appendix C in the document, *Child Find*.

4) Draft a letter. Share it with both public and private school colleagues. Redraft it using their feedback.

Accompanies
Practice 2-7

APPENDIX 2-F

School Referral for Special Education Eligibility

The following pages contain sample forms for school referrals. These are *sample forms*: different information may be collected by the school district in your area.

The following sample forms are included:

- Parent Checklist.
- School Referral Cover Sheet.
- Initial Referral Checklist.
- Parent Referral to LEA.

Accompanies
Practice 2-9

APPENDIX 2 - F

ARCHDIOCESE OF WASHINGTON

Archdiocesan Pastoral Center: 5001 Eastern Avenue, Hyattsville, MD 20782-3447
Mailing Address: Post Office Box 29260, Washington, DC 20017-0260
301-853-4500 TDD 301-853-5300

PARENT CHECKLIST

School ______________________

Address ______________________

Phone ____________ Fax ____________ Principal ______________________

➔Use the checklist below to guide you through the "Referral Process". The faculty and staff will assist you with any and all of the steps in the process.

➔Record any important information (e.g. names of contact people, dates/times of meetings, etc...) in the "Notes" column.

Parent Checklist

Steps in Process	Date	Notes
1. Parent/Teacher Conference		
2. Review "Referral Packet" contents		School staff will assist and assemble materials.
3. Complete "Parent Referral" form		Submit to LEA along with "Referral Packet". Obtain signature from LEA.
4. Schedule appointment with LEA assigned school		LEA should contact you directly to schedule this meeting.
5. Meet with LEA school (bring "Referral Packet")		A representative from your Catholic school will also attend the meeting.
6. Coordinate with LEA to arrange assessments		LEA will contact you to schedules date(s) and location(s).
7. Bring child to assessment location		Contact your Catholic school if you need assistance.
8. Attend eligibility hearing within 90 days		Classroom teacher (or other school representative) will attend the meeting with you.

SAMPLE FORM – Different information may be collected by the school district in your area.

Accompanies
Practice 2-9

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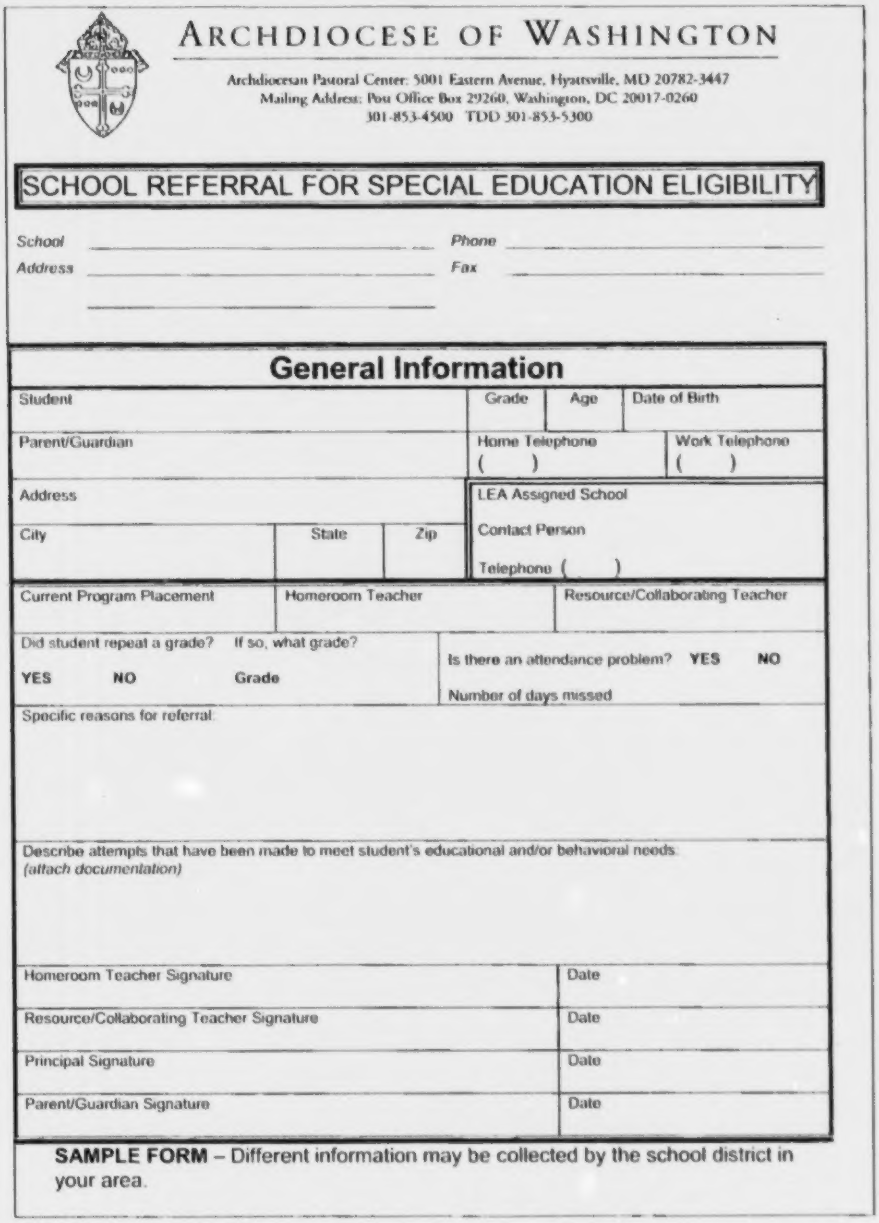
APPENDIX 2-F



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301-853-4500 TDD 301-853-5300

SCHOOL REFERRAL FOR SPECIAL EDUCATION ELIGIBILITY

School ______________________ *Phone* ______________________
Address ______________________ *Fax* ______________________
____

General Information

Student	Grade	Age	Date of Birth
Parent/Guardian	Home Telephone ( )	Work Telephone ( )	
Address	LEA Assigned School		
City / State / Zip	Contact Person Telephone ( )		
Current Program Placement	Homeroom Teacher	Resource/Collaborating Teacher	
Did student repeat a grade? If so, what grade? YES NO Grade	Is there an attendance problem? YES NO Number of days missed		
Specific reasons for referral:			
Describe attempts that have been made to meet student's educational and/or behavioral needs: *(attach documentation)*			
Homeroom Teacher Signature	Date		
Resource/Collaborating Teacher Signature	Date		
Principal Signature	Date		
Parent/Guardian Signature	Date		

SAMPLE FORM – Different information may be collected by the school district in your area.

Accompanies
Practice 2-9

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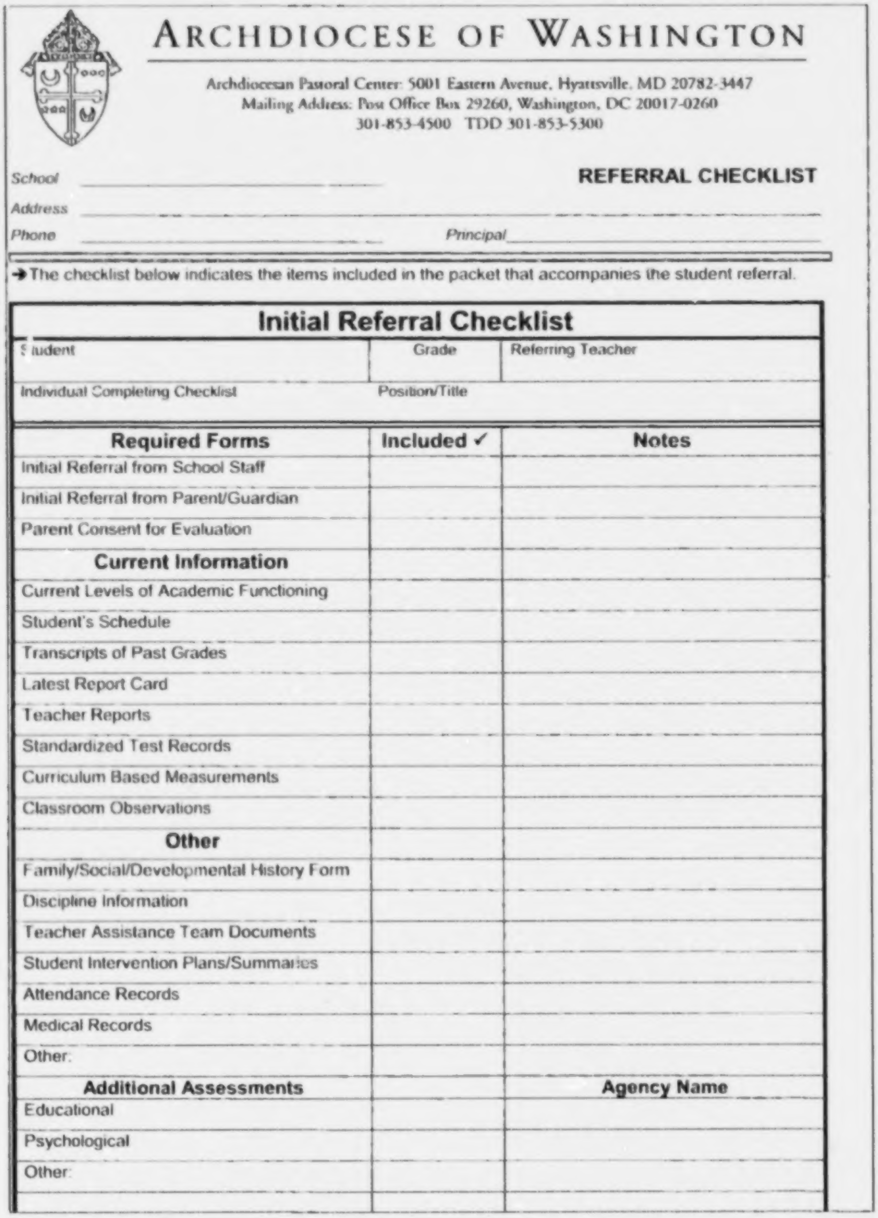
APPENDIX 2-F



ARCHDIOCESE OF WASHINGTON

Archdiocesan Pastoral Center: 5001 Eastern Avenue, Hyattsville, MD 20782-3447
Mailing Address: Post Office Box 29260, Washington, DC 20017-0260
301-853-4500 TDD 301-853-5300

REFERRAL CHECKLIST

School ______________________

Address ______________________

Phone ______________________ Principal ______________________

➔The checklist below indicates the items included in the packet that accompanies the student referral.

Initial Referral Checklist

Student	Grade	Referring Teacher
Individual Completing Checklist	Position/Title	

Required Forms	Included ✓	Notes
Initial Referral from School Staff		
Initial Referral from Parent/Guardian		
Parent Consent for Evaluation		
Current Information		
Current Levels of Academic Functioning		
Student's Schedule		
Transcripts of Past Grades		
Latest Report Card		
Teacher Reports		
Standardized Test Records		
Curriculum Based Measurements		
Classroom Observations		
Other		
Family/Social/Developmental History Form		
Discipline Information		
Teacher Assistance Team Documents		
Student Intervention Plans/Summaries		
Attendance Records		
Medical Records		
Other:		
Additional Assessments		**Agency Name**
Educational		
Psychological		
Other:		

Sample Form: different information may be collected by the school district in your area.

Accompanies
Practice 2-9

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APPENDIX 2-F

ARCHDIOCESE OF WASHINGTON

Archdiocesan Pastoral Center: 5001 Eastern Avenue, Hyattsville, MD 20782-3447
Mailing Address: Post Office Box 29260, Washington, DC 20017-0260
301-853-4500 TDD 301-853-5300

PARENT REFERRAL TO LEA

Date Submitted to LEA__________________ Signature LEA__________________________

TO: Principal and/or Special Education Chairperson

I am writing to refer my child to the Local Education Agency (LEA) Committee on Special Education. I am asking you to conduct a complete evaluation to decide if a condition exists that would determine whether my child is eligible to receive Special Education Services. Currently, my child attends a private/parochial school in ____.
City State

My child is experiencing educational and/or behavioral difficulties in the following areas:

____

____

Listed below is general information regarding my child. In addition, to help facilitate the process, I have attached copies of documents that outline the specific areas of concern and highlight the efforts the school has made to meet my child's instructional needs. This information was compiled in collaboration with my child's current school.

Please contact me as soon as possible to discuss this referral. Furthermore, I authorize my child's school to contact you to check on the status of this request.

Sincerely,

____

General Information

Child's Name	Grade	Age	Date of Birth
Parent/Guardian	Home Telephone ( )	Work Telephone ( )	
Address			LEA Assigned School
City	State	Zip	Contact Person Telephone ( )
Current Private/Parochial School	Telephone		Principal
Address	Fax		Homeroom Teacher
City	State	Zip	Resource/Collaborating Teacher

SAMPLE FORM – Different information may be collected by the school district in your area.

Accompanies
Practice 2-9

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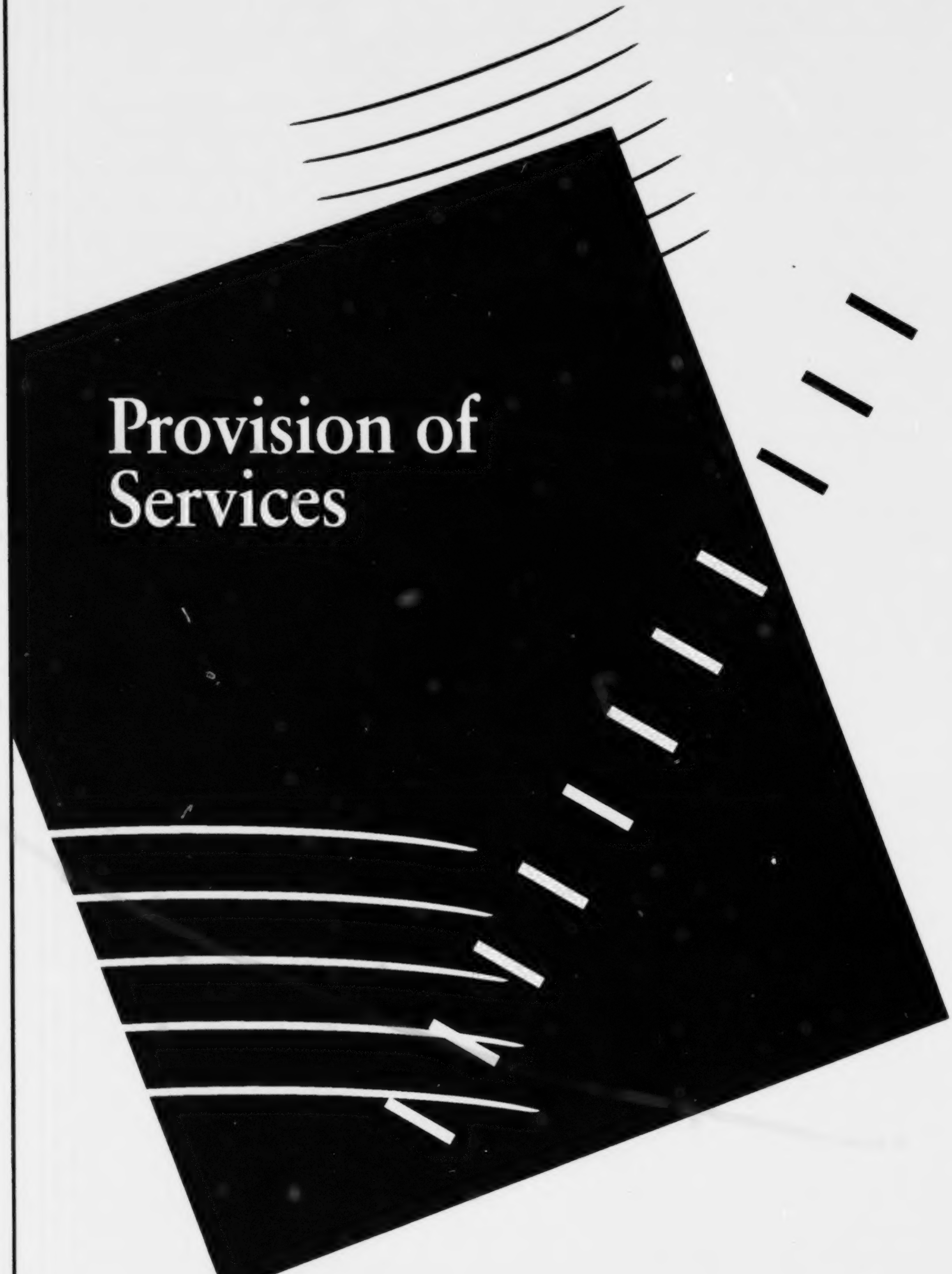

Provision of Services

SECTION THREE

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SECTION 3

Provision of Services

Introduction

Ben is a student with mental retardation who is entering sixth grade in a K-8 private school. Prior to this, Ben attended public school. The private school staff members have worked closely with the local public school system and Ben's home school because it is through them that he continues to receive speech and language services.

Marnie is in the fourth grade and has always attended a private school. When she was two years old, Marnie was identified by Child Find as having significant language delays. At that time, Marnie began receiving speech and language services. After repeating the first grade for lack of progress, Marnie was evaluated and found to have a learning disability. Her services were expanded to include reading and writing interventions. The public school she would attend and the private school teams work cooperatively to support Marnie (e.g., data are shared back and forth, regular contact is maintained, and the private school team is considered an integral part of all planning and decision making).

When Charles was entering third grade, his mother was sent to prison for the death of a child who had been in her home day care. His church-based private school was able to extend many supports to both Charles and his family. The public school that he would attend has, to the extent possible, done all it could to make Charles' extra services as accessible as possible. Public school personnel honored Charles' mother's written request (from prison) for a reevaluation and made the information available to her. Understanding how difficult it was for

Charles' father and the religious school to make arrangements to bring Charles back and forth for multiple assessments on different days, all of his assessments were scheduled for one day. The public school arranged multiple breaks and provided Charles with snacks and lunch.

As these vignettes suggest, supporting children with disabilities who are parentally placed in private schools is enhanced through collaboration. Focusing collaboration around service delivery helps to ensure that parentally placed private school children with disabilities benefit under IDEA.

How do we determine services for parentally placed private school children with disabilities? The local education agency (LEA) is required to consult with appropriate representatives of private school students with disabilities regarding student numbers, needs, and location in order to decide:

- Which students will receive services.
- What services will be provided.
- How and where the services will be provided.
- How the services will be evaluated.

Based on the information received from the consultation, the LEA determines the type of services, the location of services, and which students will receive special education and related services using a proportionate amount of their IDEA Part B monies (see Section 2 for a discussion of expenditures).

This section includes information on service delivery, services plans, and location of services. [*Note*: **Sidebar 6,** *IDEA Regulations Related to Service Delivery, Services Plans, and Service Location*, presents the provisions verbatim.]

SERVICE DELIVERY

School districts have an obligation to ensure the equitable participation of parentally placed private school students with disabilities in programs assisted or carried out under IDEA Part B. However, the IDEA Regulations specify that parentally placed private school students with disabilities do not have individual entitlements to special education or related services.

Through consultation with private school representatives and in light of at least the amount of Part B funds the school district must spend in providing services to parentally placed private school students with disabilities, the school district and private school officials design the special education program for those students who have been identified to receive services. Within these parameters, school districts have broad discretion in providing special education services to specific students. Examples of services that may be provided include:

- Speech pathology.
- Occupational therapy.
- Physical therapy.
- Reading or math lab.
- Classroom assistive hearing devices.
- Sign language interpreter.
- Reader.

- Consultations with the private school classroom teacher.
- Teacher training and professional development for private school personnel.

The services provided to private school students with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools.

Equipment and supplies also can be provided to private school students with disabilities on the premises of the private school for the period of time needed for the program. However, no funds under Part B can be used for repairs, minor remodeling, or construction of private school facilities.

As a final note, IDEA does not prohibit states or local school districts from providing services to parentally placed private school children with disabilities in excess of those required under IDEA Part B, consistent with state law or local policy.

SERVICES PLAN

Any parentally placed private school student with a disability whom a LEA elects to serve must have a services plan. The services plan must specify what services will be provided which may be less than the student would receive if enrolled in a public school.

The services plan must be developed, reviewed, and revised consistent with the IEP requirements. In addition, the LEA must ensure that a representative of the private school attends each services plan meeting, and if the representative cannot attend, the LEA must use other methods to ensure participation by the private school.

The IDEA Part B regulations do not require local education agencies to develop a services plan for every parentally placed private school student with a disability residing in the LEA's jurisdiction. Services plans are required only for those parentally placed private school students with disabilities whom the LEA has elected to serve and should reflect only the services that the LEA has determined it will provide to the student. Any additional accommodations being provided by the private school should not be part of the services plan.

LOCATION OF SERVICES

> *Representatives from the private school community worked collaboratively with Montgomery County Public Schools (MCPS) to create a plan that would enable as many students as possible to receive services under IDEA. The plan focused on efficient and effective service delivery. For example, one option allowed a MCPS speech therapist to deliver services on site at a select number of private schools. This model of service delivery helped to maintain continuity in the students' day and allowed students to have undisrupted access to the general curriculum.*
>
> *Pamela Allen*
> *Director of Educational Services for the Archdiocese of Washington*

The local school district, after considering the information received from consultation with representatives of private school chil-

Service Delivery

IDEA Regulations Related to Service Delivery, Services Plans, and Service Location

34 C.F.R. §300.454 Services determined.

(a) No individual right to special education and related services.

(1) No private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

(2) Decisions about the services that will be provided to private school children with disabilities under §§300.452-300.462, must be made in accordance with paragraphs (b), and (c) of this section.

(b) Consultation with representatives of private school children with disabilities.

(1) General. Each LEA shall consult, in a timely and meaningful way, with appropriate representatives of private school children with disabilities in light of the funding under §300.453, the number of private school children with disabilities, the needs of private school children with disabilities, and their location to decide—

(i) Which children will receive services under §300.452;

(ii) What services will be provided;

(iii) How and where the services will be provided; and

(iv) How the services provided will be evaluated.

(2) Genuine opportunity. Each LEA shall give appropriate representatives of private school children with disabilities a genuine opportunity to express their views regarding each matter that is subject to the consultation requirements in this section.

(3) Timing. The consultation required by paragraph (b)(1) of this section must occur before the LEA makes any decision that affects the opportunities of private school children with disabilities to participate in services under §§300.452-300.462.

(4) Decisions. The LEA shall make the final decisions with respect to the services to be provided to eligible private school children.

(c) Services plan for each child served under §§300.450-300.462. If a child with a disability is enrolled in a religious or other private school and will receive special education or related services from an LEA, the LEA shall-

(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with §300.455(b); and

(2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

(Authority: 20 U.S.C. 1412 (a)(10)(A))

Sidebar 6

Service Delivery (continued)

34 C.F.R. §300.455 Services provided.

(a) General.

(1) The services provided to private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools.

(2) Private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

(3) No private school child with a disability is entitled to any service or to any amount of a service the child would receive if enrolled in a public school.

(b) Services provided in accordance with a services plan.

(1) Each private school child with a disability who has been designated to receive services under §300.452 must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in §§300.453-300.454, it will make available to private school children with disabilities.

(2) The services plan must, to the extent appropriate—

(i) Meet the requirements of §300.347, with respect to the services provided; and

(ii) Be developed, reviewed, and revised consistent with §§300.342-300.346.

(Authority: 20 U.S.C. 1412(a)(10)(A))

34 C.F.R. §300.456 Location of services; transportation.

(a) **On-site**. Services provided to private school children with disabilities may be provided on-site at a child's private school, including a religious school, to the extent consistent with law.

(b) **Transportation**.

(1) **General**.

(i) If necessary for the child to benefit from or participate in the services provided under this part, a private school child with a disability must be provided transportation—

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

(ii) LEAs are not required to provide transportation from the child's home to the private school.

(2) **Cost of transportation**. The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of §300.453.

(Authority: 20 U.S.C. 1412(a)(10)(A))

Sidebar 6

dren, determines the location of services. The services may be provided on site, at the public school, or in another location. This may include services on site at a parochial school, to the extent consistent with law.

Should transportation be required for the private school student with disabilities to benefit from or participate in the services provided under their services plan, such transportation must be provided. Transportation may include:

- From the private school or home to the service site.
- From the service site to the private school or home.

The LEA is not required to provide transportation from the home to the child's private school. Any transportation costs incurred may be included in calculating the prorated amount to be spent on services (see Section 2 of this toolkit for further clarification of expenditures).

OSEP Guidance on Issues Related to Service Delivery

OSEP addressed questions related to service delivery in its memorandum, ***Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools***. Questions 22 through 34 and 38, 39, 41,42, and 45 address service delivery. Questions 35 through 37 and 44 address service location.

QUESTIONS AND ANSWERS: SERVICE DELIVERY

OSEP ? 22

Are there any particular kinds of services, and specified amounts of services, to be provided to parentally placed private school children with disabilities under Part B?

No. No parentally placed private school child with a disability has an individual right to special education and related services under Part B 34 C.F.R. §300.454(a). Therefore, the responsible public agency is not required to provide a parentally placed private school disabled child with some or all of the special education and related services that the child would receive if enrolled in a public school. This reflects the Department's longstanding interpretation of the limitations of SEAs' and LEAs' statutory obligations to make services available to the population of eligible parentally placed private school children with disabilities, in light of the limited amount of funds that LEAs must expend on services for these children.

OSEP ? 23

How are decisions made about the services that are to be provided to parentally placed private school children with disabilities, including the type and location of such services, in light of the limited amount of funds that must be expended annually on services for this population of children?

Each LEA must consult, in a timely and meaningful way, with appropriate representatives of parentally placed private school children with disabilities, in light of the minimum amount of Part B funds that must be expended for services for this population of children, on the number of parentally placed private school children with disabilities, the needs of those children, and their location. Through this consultation process, decisions are made about which parentally placed private school children with disabilities will receive services, what services will be provided, how and where the services will be provided, including the timing and location of the services provided, and how the services provided will be evaluated. Each LEA must give appropriate representatives of parentally placed private school children with disabilities a genuine opportunity to express their views regarding each matter that is the subject of the consultation process. However, the LEA makes the final decision about which eligible children will receive services, the services to be provided to eligible parentally placed private school children with disabilities and where the services will be provided. 34 C.F.R. §300.454(b)(1), (2), and (4).

OSEP ? 24

When must consultation about services occur?

Consultation about the provision of services must occur, in a timely and meaningful way, before the LEA makes any decision that affects the opportunities of parentally placed private school children with disabilities to participate in services provided under Part B requirements to those children. 34 C.F.R. §300.454(b)(3). The needs of parentally placed private school children with disabilities, their number and location, may vary over time, depending on the circumstances in a particular LEA in a particular year. As there is no specific schedule for consultation with appropriate representatives of parentally placed private school children with disabilities, states and LEAs are able to determine the appropriate period between consultations based on circumstances in their jurisdictions. Many jurisdictions have found that it works well when consultation takes place, at a minimum, to review the Child Find process, discuss the Child Count, and plan the services being offered prior to each school year. The regulations do not include specific requirements regarding matters such as public notice of meetings, public transcripts of meetings, explanations of amounts and frequency of services provided, or explanations of refusals to provide services, changes in the manner in which services are provided, or the manner in which funds are allocated, leaving these issues to state and local authorities.

OSEP ? 25

Which individuals are appropriate representatives of parentally placed private school children with disabilities? What about parents of such children?

Part B does not specify which individuals are "appropriate representatives" of parentally placed private school children with disabilities. However, since one aspect of consultation is intended to discuss the needs of children with disabilities placed in private schools by their parents, it would be reasonable for parents to be considered "appropriate representatives" of such children. Other "appropriate representatives" of parentally placed private school children might be teachers, principals, and, in the case of private school systems, central office administrators responsible for federal program services and/or special education. Whether parents of home-schooled children or other representatives of home-schooled children should be considered "appropriate representatives" of parentally placed private school children with disabilities depends on whether, under state law, home schooling is regarded as parental placement at a private school.

OSEP ? ㉖

Is it possible for an LEA, through consultation with appropriate representatives of parentally placed private school children with disabilities, to provide only certain direct services to those parentally placed private school children with disabilities designated to receive services?

Yes. Based on relevant input from consultation, and in light of available funding, it could be reasonable for an LEA to conclude that providing direct services would ensure that those parentally placed private school children with disabilities selected to receive services will derive a benefit from the services offered. For example, an LEA could determine through consultation that providing direct services for fewer children would be more beneficial in addressing the needs of its parentally placed private school children with disabilities than providing consultative services, instructional materials, equipment, or teacher training.

OSEP ? ㉗

Is it possible for an LEA, through consultation with appropriate representatives of parentally placed private school children with disabilities, to determine that it will provide no direct services to its eligible parentally placed private school children with disabilities, but that instead, the LEA will provide consultative services, or equipment and teacher training?

Yes. Through the consultation described above, determinations must be made about how the available amount of funds can be utilized so that the parentally placed private school children with disabilities designated to receive services can benefit from the services offered. The regulations specify that the LEA makes the final decision with respect to services to be provided to eligible parentally placed private school children with disabilities, (34 C.F.R. §300.454(b)(4)), based in part on input provided through the consultation process by appropriate representatives of parentally placed private school children with disabilities (34 C.F.R. §300.454(b)(3)). Depending on local circumstances and the amount of funds available for expenditures for this population of children, it could be reasonable for an LEA to conclude that, in lieu of direct services, its parentally placed private school children with disabilities should be provided with consultative services, equipment, and materials, and that training will be provided for private school teachers and other private school personnel.

If consultative services are provided to a private school teacher, as a means of providing special education and related services to a particular private school child with a disability, there may be situations where that teacher uses the acquired skills to provide education to other children as well. However, whatever benefit those other children receive is incidental to the publicly-funded services. As is true if direct services are provided, LEAs that elect to provide consultative services to their parentally placed private school children with disabilities also must develop a services plan for each child receiving those services in accordance with 34 C.F.R. §300.455(b).

OSEP ? ㉘

How would a services plan be developed for a parentally placed private school child with a disability receiving consultative services?

Any parentally placed private school child with a disability whom an LEA elects to serve must have a services plan. 34 C.F.R. §300.454(c). Each child's services plan must contain, among other elements, a statement of the special education, related services, and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child to advance appropriately toward attaining his or her annual goals, to be involved and progress in the general curriculum, and to participate in extracurricular and other nonacademic activities. Consultation between a regular education teacher and a special education teacher could allow the regular educator to provide special education, which consists of specially designed instruction that meets state education standards and is individually designed for an individual student, or a related service, if that service is required to assist a child with a disability to benefit from special education. Consultative services also could be considered a supplementary aid or service if provided to facilitate a student's education in regular classes alongside his or her nondisabled peers (see 34 C.F.R. §300.28) or a support for school personnel, if provided to enable the child to advance appropriately toward attaining the annual goals and to be involved and progress in the general curriculum.

OSEP ? ㉙

Could an LEA, through consultation with appropriate representatives of parentally placed private school children with disabilities, decide to provide services that address some of the needs of parentally placed private school children with disabilities?

Yes. As noted previously, an LEA must conduct Child Find for all children enrolled in private schools by their parents who are suspected of having disabilities, regardless of the category of their suspected disability. However, once determined eligible, an LEA must, through the consultation process previously described, determine, among other matters, which parentally placed private school children with disabilities will receive services, what services will be provided, and the manner in which those parentally placed private school children with disabilities selected to receive services will be served. An LEA could properly conclude that it will provide only certain services which may mean that needs commonly associated with one or more disability categories are not met, and that only some of the needs of a child who is served are met. An LEA could decide, through consultation, not to serve any parentally placed private school children with disabilities who are enrolled at one or more private schools, but instead to limit the services the LEA is offering with the available amount of funds to parentally placed private school children with disabilities enrolled at only one private school.

OSEP ? ㉚ ***Is there any requirement for parentally placed private school children with disabilities to have IEPs?***

No. Current regulations provide that each parentally placed private school child with a disability who has been designated to receive services from the LEA must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the consultation process, that it will make available to its parentally placed private school children with disabilities. 34 C.F.R. §300.455(b)(1).

OSEP ? ㉛ ***Must services plans be in place for all eligible parentally placed private school children with disabilities residing in the LEA's jurisdiction?***

No. The Part B regulations do not require public agencies to develop services plans for each and every parentally placed private school child with a disability residing in the LEA's jurisdiction, regardless of whether that child receives services from the LEA. Services plans are required only for those parentally placed private school children with disabilities whom the LEA has elected to serve, and must reflect only the services that the LEA has determined it will provide to the particular parentally placed child with a disability.

OSEP ? ㉜ ***How must a services plan be developed?***

A services plan must be developed, reviewed, and revised consistent with 34 C.F.R. §§300.342-300.346 of the Part B regulations. The LEA is responsible for initiating and conducting meetings to develop a services plan in accordance with these requirements. The LEA must ensure that a representative of the religious or other private school attends each services plan meeting, and if the representative cannot attend, the LEA must use other methods to ensure participation by the private school, including individual or conference telephone calls.

What must a services plan contain?

As noted above, a services plan, which must reflect only the services offered to a parentally placed private school child with a disability designated to receive services, must, to the extent appropriate, meet the IEP content requirements in 34 C.F.R. §300.347. Since students with disabilities who are entitled to FAPE must receive the full range of services under Part B, their IEPs generally will be more comprehensive than the more limited services plans developed and implemented for those parentally placed private school children with disabilities designated to receive services from an LEA. The requirement that a services plan meet the requirements of an IEP, to the extent appropriate, will ensure that the services actually provided to a parentally placed private school child with a disability will meaningfully address the child's individual needs.

Example: An LEA has elected to serve an individual parentally placed private school child with a disability who has speech needs through the provision of speech-language pathology services.

The child's services plan would specify the present levels of educational performance in this area, and how the child's speech-language disability affects the child's ability to be involved and progress in the general curriculum. Measurable annual goals for this child would be specific to the speech-language pathology services to be provided, and would enhance the child's ability to be involved in and progress in the general curriculum. The services plan would also specify the amount, frequency, location, and duration of the services to be provided in accordance with 34 C.F.R. §300.347(a)(6) and how the child's parents will be informed of the child's progress, in accordance with 34 C.F.R. §300.347(a)(7). Whether other content requirements at 34 C.F.R. §300.347 would have to be addressed in a services plan would have to be determined on a case-by-case basis, depending on the services that are provided.

Are there any remedies available to parents who dispute the services offered or provided to their child in connection with the parental private school placement?

Since eligible parentally placed private school children with disabilities do not have an individual entitlement to services under Part B, the due process procedures in Part B of the Act do not apply to complaints that an LEA has failed to meet applicable requirements for serving these children, including an LEA's alleged failure to provide the services specified on a child's services plan. However, an organization or individual may file a signed written complaint under the applicable state complaint procedures at 34 C.F.R. §§300.660-300.662 alleging that an SEA or LEA has failed to meet the requirements in 34 C.F.R. §§300.451-300.462, such as failure to properly conduct the consultation process. On the other hand, as is true with respect to due process complaints, a state complaint alleging that an LEA has failed to offer services to a particular parentally placed private school child with a disability would not violate Part B, since no parentally placed private school child with a disability has an individual entitlement to services under Part B 34 C.F.R. §300.454(a).

OSEP ? 38

Are the requirements for children with disabilities aged 3 through 5 who are placed by their parents at private preschool programs, including home day care programs, the same as the requirements for children with disabilities parentally placed at private elementary and secondary schools?

Yes. The Department interprets the requirements at 20 U.S.C. §1412(a)(10)(A) and 34 C.F.R. §§300.450-300.462 to be fully applicable to children with disabilities aged 3 through 5 who have been placed by their parents at private schools. Many preschool-aged children also attend a broad range of child care settings. Whether a private day care program conducted in the home or otherwise outside of the administrative control of a public agency can be considered a private preschool depends on the state definition of "private school." That a day care program is licensed under state health and safety and other day care requirements does not make the day care program a "private school" unless the state definition so specifies.

Assuming a child of preschool age is enrolled by his or her parents at a private preschool that satisfies the state definition, the same procedures that govern children with disabilities parentally placed in private elementary and secondary schools in the state would be applicable. The child would have to be evaluated in accordance with the Part B requirements at 34 C.F.R. §§300.532-300.533, subject to informed parental consent, and determined eligible in accordance with 34 C.F.R. §300.535. Once determined eligible, the affected LEA would offer to make FAPE available at a public agency program or a public agency placement at a private school. In some situations, if the parents were interested in having their child participate in the publicly available services, the public agency could determine that the services specified in the IEP developed for the child could be appropriately implemented in the day care setting selected by the parent at no cost to the parents.

If the parents choose not to accept the public program or placement offered, and if the parents enroll the child in a private preschool recognized under the state's definition, the public agency must include the child in the group of parentally placed private school children with disabilities whose needs must be considered through the consultation process at 34 C.F.R. §300.454(a)-(b) described earlier.

A parentally placed private preschool-aged child with a disability who attends a program recognized under the state definition of private school and is designated to receive services from a public agency must have a services plan in accordance with 34 C.F.R. §300.454(c) and §300.455 with respect to the services offered. As is true for services offered to parentally placed private school children with disabilities in other age groups, services offered to preschool-aged children with disabilities may be provided on the premises of the private program, including a religious school, to the extent consistent with law. 34 C.F.R. §300.456(a). Children in that age group who attend programs recognized under the state definition of private school designated to receive services can be served through the proportionate share of available section 611 and 619 funds that must be expended on services for this population of children. The LEA's annual count of parentally placed private school children with disabilities residing in the LEA's jurisdiction conducted under 34 C.F.R. §300.453(b) must include all children with disabilities who attend private schools recognized under the state definition. However, children with disabilities parentally placed at private programs that do not meet the state definition of private school cannot receive services under Part B and cannot be included in the annual count of parentally placed private school children with disabilities aged 3 through 5.

OSEP 39

Are children with disabilities placed by their parents at private schools entitled to a free appropriate public education at the private school?

No. Children with disabilities placed by their parents at private schools are not entitled to a free appropriate public education (FAPE) in connection with their parental private school placements. States receiving funds under Part B of IDEA, as a condition of receipt of those funds, must make FAPE available to all children with disabilities residing in the state in mandatory age ranges. 20 U.S.C. §1412(a)(1)(A); 34 C.F.R. §300.121. States satisfy their FAPE obligation to their resident parentally placed private school children with disabilities by offering them FAPE either at a public agency or at a public agency placement at a private school. However, LEAs generally must consider and address the needs of eligible parentally placed private school children with disabilities residing in their jurisdiction.

OSEP 41

Are there any particular qualifications that are applicable to personnel who provide special education or related services to those parentally placed private school children with disabilities LEAs elect to serve?

Yes. Services provided to parentally placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing such services in public schools. Funds awarded under Part B, Sections 611 and 619, may be used to make public school personnel available in other than public facilities to the extent necessary to provide services to parentally placed private school children with disabilities under Part B, if those services are not normally provided by the private school. In addition, if private school personnel provide the services that the LEA has determined it will provide to its parentally placed private school children with disabilities, the private school personnel must meet the same standards as personnel providing services in public schools, must perform the services outside of their regular hours of duty, and must perform the service under public supervision and control. 34 C.F.R. §§300.455(a) and 300.460-300.461.

OSEP ? 42

How could a state educational agency monitor to ensure that parentally placed private school children with disabilities are being served in a manner that complies with Part B?

Each SEA must exercise general supervision over all education programs for children with disabilities administered by public agencies in the state and must ensure that such programs meet state education standards and Part B requirements. Accordingly, an SEA is required to have a method of monitoring its public agencies to ensure that they are meeting the statutory and regulatory requirements applicable to services for parentally placed private school children with disabilities. An SEA also would be required to ensure that those parentally placed private school children with disabilities whom the LEA has elected to serve are receiving special education or related services in accordance with a services plan.

OSEP ? 45

If under state law, dual enrollment of a child in both a public agency program and a private school is required in order for the child to receive special education and related services from a public agency in connection with a parental private school placement, does the parentally placed private school child with a disability have a right to FAPE?

The Part B regulations make clear that no parentally placed private school child with a disability has an individual entitlement to services. 34 C.F.R. §300.454(a). Whether dual enrollment alters the rights of a parentally placed private school child with a disability under state law is a state matter. There is nothing in Part B that would prohibit a state from requiring dual enrollment as a condition of eligibility of a parentally placed private school child with a disability for services from a public agency.

QUESTIONS AND ANSWERS: LOCATION OF SERVICES

OSEP ? 35

How are decisions made about the location of services that the LEA has selected through consultation to offer to its parentally placed private school children with disabilities?

As is true regarding the services that an LEA has selected to provide its parentally placed private school children with disabilities designated to receive services, the location of services also is a matter that is determined through the process of consultation between LEA officials and appropriate representatives of parentally placed private school children with disabilities. Services offered to parentally placed private school children with disabilities may be provided on-site at a child's private school, including a religious school, to the extent consistent with law, or at another location. The phrase "consistent with law" is statutory, and means that the provision of services on the premises of a private school takes place in a manner that would not violate the Establishment Clause of the First Amendment to the U.S. Constitution and would not be inconsistent with applicable state constitutions or laws. The provision of services at private school sites will help to minimize the amounts and time spent on transportation. In addition, this should cause the least disruption in the children's education. Since some states do not allow services to be provided at the private school site, LEAs may wish to seek legal advice before making service location determinations.

If transportation would be a related service for a child with a disability, had the child been served directly in a public agency program or a public agency placement at a private school, would transportation automatically become a related service for a parentally placed private school child with a disability who is designated to receive services from the LEA?

Regardless of whether transportation would be a related service for a child with a disability, transportation may be necessary for an individual child. If services are offered at a site separate from the child's private school, transportation may be necessary to get the child to and from that other site. Failure to provide transportation could effectively deny the child an opportunity to benefit from the services that the LEA has determined through consultation to offer its parentally placed private school children with disabilities. In this situation, transportation is not a related service, as defined at 34 C.F.R. §300.24(b)(15), but it still is a necessary means of making the services that are offered accessible to the child.

Could an LEA refuse to provide transportation to parentally placed private school children with disabilities who reside in its jurisdiction but who attend private schools located outside of the LEA's boundaries?

LEAs are encouraged to work in consultation with appropriate representatives of parentally placed private school children with disabilities to ensure that services are provided at sites that will not require significant transportation costs. Therefore, it may be reasonable for an LEA, through the consultation process, to elect not to provide services to a child who attends a private school outside the district. However, if any child is selected for services and the service is provided away from the school the child attends, the child must be provided transportation to the service if it is necessary for the child to benefit from or participate in the service. Therefore, it may not be unreasonable for an LEA to elect not to provide services to parentally placed private school children with disabilities who reside in the LEA's jurisdiction but who attend private schools located outside of the LEA's boundaries because of the increased costs involved.

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Is home school considered a private school? What if a child is below a state's compulsory school age and receiving services from an unapproved or uncertified home day care or other location strictly for child care purposes?

Whether home schools are "private schools," including home day care, is determined by the state. If the state recognizes home schools or home day care as private schools, children with disabilities in those home schools or home day care must be treated in the same way as other parentally placed private school children with disabilities. If the state does not recognize home schools or home day care as private schools, children with disabilities who are home-schooled or in home day care are still covered by the Child Find obligations of SEAs and LEAs, and these agencies must ensure that home-schooled children and those in home day care who have disabilities are located, identified, and evaluated, and that FAPE is available if their parents choose to enroll them in public schools.

Information-Building Practices

The following practices are offered to assist stakeholders in building knowledge about service delivery provisions in IDEA related to parentally placed private school children with disabilities. In all cases, the practices presented are only suggestions and/or illustrations of what other stakeholders have found useful in implementing service delivery provisions for parentally placed private school children with disabilities.

The practices included in this section address general information needs related to service, including becoming familiar with the relevant IDEA service delivery provisions, developing services plans, and facilitating consultation on service delivery. Practices are organized as follows:

Understanding IDEA and the Service Delivery Provisions

- Practice 3-1: Review the IDEA Service Delivery Provisions.
- Practice 3-2: Understanding Related Services.
- Practice 3-3: Learn More About IEPs.

Facilitating Consultation on Service Delivery

- Practice 3-4: Host a Meeting.
- Practice 3-5: Disseminating Information About Services.
- Practice 3-6: Determine Location of Services.
- Practice 3-7: What Do You Think About Service Expenditures?
- Practice 3-8: What Would You Do Differently?

Developing Services Plans

- Practice 3-9: A Look at Services Plans.
- Practice 3-10: Preparing Correspondence for Parents and Private School Personnel.
- Practice 3-11: Facilitating Participation of Private School Representatives in Developing a Child's Services Plan.

Practice 3-1 Review the IDEA Service Delivery Provisions

Regulations are written to provide guidance on implementing the law and are considered requirements. Familiarize yourself with the IDEA Regulations on service delivery. You can do this by completing one or more of the following activities:

1) **Explore provisions found in 34 C.F.R. §§300.451-300.453 related to Child Find, Child Count, and expenditures**. Use one of the following tools:

- **ILIAD/ASPIIRE web site**. The law and final regulations can be downloaded or searched at **www.ideapractices.org**.
- ***Discover IDEA CD 2002***. The law and final regulations are available in electronic format, complete with search mechanisms. Note: The law also is found on the previous version (2000) of the CD. Available from: Council for Exceptional Children, 1110 N. Glebe Road, Arlington, VA 22201, 888-232-7733 (toll free), 866-915-5000 (TTY toll free), **www.cec.sped.org**. Take advantage of the enhanced search opportunities included on the CD (e.g., Senate Committee discussion).

Consider how use of these tools can enhance one's understanding of the provisions. Take advantage of the enhanced search opportunities by exploring additional information related to the final regulations (e.g., Senate Committee discussion). For example, the Analysis and Comments to the regulations clarify that the local education agencies and states determine the appropriate period between consultations based on circumstances in each jurisdiction.

2) **Review the provisions cited in the OSEP Memorandum**. The primary IDEA Regulations related to parentally placed private school children with disabilities are found in 34 C.F.R. §§300.450-300.462. However, many of the answers in the OSEP Memorandum refer to other IDEA Regulations, including:

- 34 C.F.R. §300.24 Related services.
- 34 C.F.R. §300.28 Supplementary aids and services.
- 34 C.F.R. §300.121 Free appropriate public education (FAPE).
- 34 C.F.R. §§300.342-300.347 Individualized Education Programs.

- 34 C.F.R. §300.532 Evaluation procedures.
- 34 C.F.R. §300.533 Determination of needed evaluation data.
- 34 C.F.R. §300.535 Procedures for determining eligibility and placement.
- 34 C.F.R. §§300.660-300.662 State complaint procedures.

Using the tools referenced in this practice, explore these provisions as well. Note how understanding of these additional provisions increases one's understanding of the IDEA Regulations found in 34 C.F.R. §§300.450-300.462.

3) **Test your knowledge**. A short assessment is found in **Appendix 3-A**, *Test Your Knowledge of Service Delivery*. The assessment is based on the OSEP Memorandum questions and answers and may be used as a pre-test-posttest or knowledge check. The answer key is as follows:

(1) No: See OSEP Question 22.

(2) Yes: See OSEP Question 23.

(3) No: See OSEP Question 24.

(4) No: See OSEP Question 25.

(5) Yes: See OSEP Question 26.

(6) Yes: See OSEP Question 27.

(7) Yes: See OSEP Question 29.

(8) No: See OSEP Question 30.

(9) No: See OSEP Question 31.

(10) Yes: See OSEP Question 38.

(11) No: See OSEP Question 39.

(12) Yes: See OSEP Question 41.

If working in a group setting, the assessment items may be used in the context of a review game, such as *Baseball, Jeopardy, or Who Wants To Be a Millionaire?*

Practice 3-2 Understanding Related Services

Through consultation with private school representatives and in light of at least the amount of Part B funds the school district must spend in providing services to parentally placed private school students with disabilities, the school district will decide which services will be provided to those students who have been identified to receive services. Within these parameters, school districts have broad discretion in providing special education services to specific students. Examples of services that some districts report they have provided include:

- Speech pathology.
- Occupational therapy.
- Physical therapy.
- Classroom assistive hearing devices.
- Sign language interpreter.
- Reader.
- Consultations with the private school classroom teacher.
- Teacher training and professional development for private school personnel.

Prepare yourself for consultation by becoming knowledgeable about the different types of related services.

One way to do this is to review the OSEP-reviewed News Digest, ***Related Services***, prepared by the National Information Center for Children and Youth with Disabilities (NICHCY) (2001). It is available on the NICHCY web site at **www.nichcy.org**. In a question and answer format, this News Digest briefly examines the answers to the following questions:

- What are related services?
- Why are they an important part of educating children with disabilities?
- Who is eligible for related services?
- How are related services delivered?

In addition, the News Digest offers a list of organizations that typically provide more information about the various related services.

When using this document with others, you may want to consider the following activities taken from the ASPIIRE/ILIAD package, ***Discover IDEA: Supporting Achievement for Children with Disabilities***. [*Note*: This package is available from the Council for Exceptional Children, 1110 N. Glebe Road, Arlington, VA 22201, 888-232-7733 (toll free), 866-915-5000 (TTY toll free), **www.cec.sped.org**.]

Discussion Questions

Related services are intended to assist a child with a disability in benefiting from special education. Before presenting a mini lecture based on the information, activate participants' prior knowledge by asking the following questions:

- What are related services?
- How do related services support the student in receiving a free appropriate public education in the least restrictive environment?
- How do people know what related services a student needs?
- Who provides related services?
- Where are related services provided?
- How are related services funded?

Who Am I?

To assist group members in familiarizing themselves with different related service personnel, prepare a take-off on the game, *Twenty Questions*. Here are the steps:

1. Prepare copies of the descriptions for each related service. Make enough copies for each participant.

2. Ask participants to form pairs. Ask each pair to review **one** of the related services and make a list of characteristics. Descriptors should be stated using the following template: "I ____." For example, let's say you selected physical therapy. Your descriptors may look something like the following:

- I address a child's posture, muscle strength, mobility, and organization of movement in educational environments.
- I may be utilized to prevent the onset or progression of impairment, functional limitation, disability, or changes in physical function or health resulting from injury, disease, or other causes.
- I may provide treatment to increase joint function, muscle strength, mobility, and endurance.
- I may address gross motor skills that rely on the large muscles of the body involved in physical movement and range of motion.
- I may help improve the student's posture, gait, and body awareness.
- I may monitor the function, fit, and proper use of mobility aids and devices.

3. Distribute the handout, *Who Am I?* in **Appendix 3-B** to all participants.

4. Ask each pair to read their "clues." They should pause after reading each descriptor. At the end, they should pose the question, "Which related service am I?" Participants should identify the correct related service provider from their lists.

As a variation, create BINGO cards that contain only some of the related service providers. After each pair presents the related service description, participants should mark the corresponding square on their BINGO card, if it exists.

Investigate the Organization

On pages 18 and 19 of the NICHCY document, a number of organizations are listed. Ask participants to select an organization and investigate it. [*Note*: Each organization listed has a web site that may be accessed for information.] Allow participants to work independently or with another colleague. Ask that participants return to the large group and share their findings.

Practice 3-3 *Learn More About IEPs*

To the extent appropriate, the services plan must be developed, reviewed, and revised consistent with the IEP procedures and must meet the content requirements of an IEP with respect to the services the LEA has decided to provide. Prepare yourself for consultation and participation on services plan development teams by becoming knowledgeable about IEPs. A number of resources exist to support you in this activity. Consider the following:

- **ILIAD/ASPIIRE web site**. To locate it, proceed to **www.ideapractices.org** and click on Professional Development Resources. From there, conduct a search of IEP resources. In addition, the ILIAD/ASPIIRE web site contains the IDEA Regulations. Final regulations for IEPs are 34 C.F.R. §§300.340-300.350. Do an enhanced search of the relevant regulations.
- ***A Guide to the Individualized Education Program***. In 2000, OSEP prepared this guide to explain the IEP process from development to implementation. The guide is available online at: **www.ed.gov/offices/OSERS/OSEP/**. Or, it may be downloaded from the ILIAD/ASPIIRE web site at **www.ideapractices.org** (click on Professional Development Resources). It also is found on the ***Discover IDEA CD 2002*** (or 2000).
- ***Developing Educationally Relevant IEPs: A Technical Assistance Document for Speech-Language Pathologists***. This document was published in 2000 by the American Speech-Language-Hearing Association. The purpose of this guide is to provide information that will assist speech-language pathologists in their role in developing the IEP as IEP team members and in implementing those portions of the IEP for which they are responsible. The guide is available on the ILIAD/ASPIIRE web site at **www.ideapractices.org**. Click on Professional Development Resources.
- ***IDEA Requirements for Preschoolers with Disabilities: IDEA Early Childhood Policy and Practice Guide***. The Division for Early Childhood (DEC) of the Council for Exceptional Children published this guide in 2000. The guide features a section on individualized education programs or individualized family service plans (IFSP) in question-and-answer format. In addition, the notes from the Division for Early Childhood provide suggestions on implementing IEP requirements with preschool-aged children. The document is available in html and PDF formats on the ILIAD/ASPIIRE web site at **www.ideapractices.org**. It also is available in print form from the Division for Early Childhood, the Council for Exceptional Children, 1110 N. Glebe Road, Suite 300, Arlington, VA 22201, 888-232-7733 (toll free), 866-915-5000 (TTY toll free), **www.cec.sped.org**.
- ***Individualized Education Programs: Briefing Paper***. The National Information Center for Children and Youth with Disabilities (NICHCY) published this guide in 1999. This guide covers the legal requirements for developing an IEP. Download from NICHCY web site at **www.nichcy.org**. Or contact NICHCY at P.O. Box 1492, Washington, DC 20013, 800-695-0285 (V/TTY).
- ***Planning Your Child's Individualized Education Program (IEP): Some Suggestions to Consider***. This two-page fact sheet summarizes what parents may want to consider before, at, and after an IEP team meeting. It is available on the Families and Advocates Partnership for Education web site at **www.fape.org**.

Practice 3-4

Host a Meeting

Through consultation with private school representatives and in light of at least the amount of Part B funds the school district must spend in providing services to parentally placed private school students with disabilities, the school district decides which services will be provided to those students who have been identified to receive services.

Consultation may take various forms, the most common being a meeting between public school and private school representatives to discuss services to be offered. Following are suggestions for ensuring a genuine opportunity to participate.

Invitation To Participate in Consultation

School districts should arrange for appropriate representatives of private schools, including parents of private school students with disabilities, to participate in consultation. Using the master list (see Section 2, Practice 2-8), private school representatives can be contacted about such meetings. To enhance participation, consider the following practices:

- **Craft a letter of invitation that includes such things as logistics and purpose of the meeting**. In addition, Child Find information may be shared, such as number of parentally placed private school children with disabilities in the jurisdiction. The status of current services (e.g., what is offered, to whom, and where) also should be included. In some instances, this may be in the form of a memorandum of understanding. [See Practice 3-5 for further information.]
- **Plan an agenda that invites input from partici-**

pants. Begin the meeting by having participants introduce themselves. Consider having participants identify the needs of private school students with disabilities, brainstorm the types of services they believe private school students with disabilities might benefit most from, and then prioritize them. Engage participants in sharing their perspectives on how to help students access such services.

- **Encourage private school participants to review the status of children with disabilities in their schools prior to the meeting**. Ask them to identify things that the private school is doing to support their participation and progress in the general education curriculum. Also ask, private school representatives to think about students' needs and what might be of assistance to them.

Invitation to Provide Input to Representatives

To provide additional input into the consultation process, private school and/or public school personnel may wish to hold a general meeting of constituents. At this meeting, participants might be encouraged to share their perspectives on the provision of services to parentally placed private school students with disabilities. **Appendix 3-C**, *Getting the Word Out*, presents a memo and flyer used by the Archdiocese of Washington that encourages private school principals and other stakeholders to attend a meeting.

Practice 3-5

Disseminating Information About Services

After consultation with private school representatives, the school district determines how it will provide services to parentally placed private school children with disabilities. This information should be shared with the private school community. Some school districts have chosen to organize the information in a statement of understanding. Consider the following statements:

> *Under the terms of its current agreement with private and religious schools, Montgomery County Public Schools (MCPS) provides assessments and evaluation services to all students who are residents of Montgomery County attending private or religious schools. MCPS also provides eligible students with special education resource support and speech and language services during the MCPS student school day. Services are provided at the student's MCPS home school, unless the student has been approved to receive the services at another MCPS school. On-site services may be provided in identified private or religious schools as determined by MCPS. Students receiving services in their home school at the beginning or end of the MCPS school day are also eligible for transportation to the service location from their home or from the service location to their home depending on the timing of the services. No other special education or related services are provided. Although legally not required to do so, MCPS extends these services to students who are home-schooled.*

> *The Portland Public School District has determined, after consultation with representatives of private school children with disabilities, that only the following students with disabilities will be served: (a) students eligible because of a specific learning disability, and (b) students eligible because of a communication (speech and/or language) disorder. The district has determined, after consultation with representatives of private school children with disabilities, that only the following services will be provided by the district and as identified in the student's services plan: (a) speech and/or language services; (b) academic support (direct instruction or consultation) in the areas of reading, written language, or math; and (c) transportation if necessary to benefit from or participate in services.*

Reflect on how the districts chose to present the information. Is it clear and easy to understand? What suggestions do you have for improving communication?

Find out if your district has a statement. If it does, review it for clarity and comprehensiveness. Note any questions raised by it, such as:

- Does the statement appear to address student needs?
- How might you share this statement with constituents?
- Is the statement consistent with IDEA requirements?
- Was it developed in consultation with private school representatives?

If your district does not have one, you may want to suggest that one be developed.

Once you have your statement, it should be dis-

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seminated to private school personnel and parents. A sample of a cover letter used by Montgomery County Public Schools for this purpose is found in **Appendix 3-D**, *Sample Letter to Private Schools: Statement of Understanding*.

Practice 3-6 Determine Location of Services

Part of service delivery is determining service location. When it is determined that services will be provided at public school locations, experts working in the area suggest that accessibility be a major consideration.

Prior to the decision or meeting at which private school representatives provide consultation, review a map of the district by:

- Identifying where private schools are located in relation to public schools.
- Marking (e.g., color code) how many students with disabilities attend each private school.
- Noting which services are provided at which schools.
- Marking transportation routes.

Using the map as a reference point, analyze the needs and the services to be provided by the district. Generate several options for location of services.

If working in a group, use this map as a visual when soliciting input.

Practice 3-7 What Do You Think About Service Expenditures?

The LEA is required to consult with appropriate representatives of private school students with disabilities regarding students' numbers, needs, and location in order to decide:

- Which students will receive services.
- What services will be provided.
- How and where the services will be provided.
- How the services will be evaluated.

Based on the information received through the consultation process, the LEA determines what services, the location of services, and which students will receive special education and related services using a proportionate amount of their IDEA Part B monies.

Consider this example:

> *A town might have 10 children with special needs attending private schools at private expense. The town makes the final decision regarding the use of the federal funds for the private school students with special needs. The plan can target all the money to provide services to one or more students, or the plan can use all the funds for staff training without provision of any direct services.*
>
> [*Note*: The example was taken from the article, ***Special Education in Private Schools*** (1999), by the Massachusetts Advocacy Center and the Disability Law Center. (For information, contact center staff at 11 Beacon Street, Suite 925, Boston, MA 02108, 800-872-9992, 800-381-0577 (TTY), **www.dlc-ma.org**.)]

What do you think? How should funds be determined? Make a list of all considerations. Once you have generated a list, identify the pros and cons of each.

If working with a group, assign the task to small groups. Allow 15 minutes or so for groups to discuss. Reconvene the group and ask participants to share their conclusions.

As an extension, ask participants to role play a meeting at which public school and private school representatives are meeting to discuss service delivery. Assign roles—some participants are public school personnel, some are private school, and some are parents. The challenge: To come to a mutually agreed upon option.

Practice 3-8 What Would You Do Differently?

Services plans are required for those parentally placed private school students with disabilities whom the LEA has elected to serve and generally reflect only the services that the LEA has determined it will provide to the student. To the extent appropriate, the services plan must be developed, reviewed, and revised consistent with the IEP procedures. In addition, the LEA must ensure that a representative of the private school attends each services plan meeting.

Appendix 3-E, *What Would You Do Differently?* contains two vignettes in which some aspect of the process has not worked to one or more of the stakeholder's expectations. Review the vignettes by:

- Identifying those areas which might be improved.
- Making suggestions for what might be done differently.
- Checking your suggestions against the IDEA Regulations.

If working in a group, consider having participants form small groups of four members to discuss the vignettes.

Practice 3-9 A Look at Services Plans

Current regulations provide that each parentally placed private school child with a disability who has been designated to receive services from the LEA must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the consultation process, that it will make available to its parentally placed private school children with disabilities.

A services plan, which must reflect only the services offered to a parentally placed private school child with a disability designated to receive services, must, to the extent appropriate, meet the IEP content requirements in 34 C.F.R. §300.347. Since students with disabilities who are entitled to free appropriate public education (FAPE) must receive the full range of services under Part B, their IEPs generally will be more comprehensive than the more limited services plans developed and implemented for those parentally placed private school children with disabilities designated to receive services from an LEA. The requirement that a services plan meet the requirements of an IEP with respect to the services provided, to the extent appropriate, will ensure that the services actually provided to a parentally placed private school child with a disability will meaningfully address the child's individual needs. In almost all instances, the child's services plan should specify:

- Present levels of educational performance in the area in which the child will receive services.
- How the child's specific disability for which he or she is designated to receive services affects his or her ability to be involved and progress in the general curriculum.
- Measurable annual goals that are specific to the services to be provided.
- Amount, frequency, location, and duration of the services to be provided.
- How the child's parents will be informed of the child's progress.

Review Services Plans

School districts develop services plans that include the above mentioned elements. Contact your school district and ask if the district has a standard services form that it uses. If so, review the form by considering the following questions:

- How is the essential information treated?
- Is additional information included?
- Is the format easy to use?
- How does the services plan differ from an IEP?

Practice 3-10

Preparing Correspondence for Parents and Private School Personnel

During the service delivery phase, many different individuals will need to be kept informed—parents, public school personnel, and private school personnel will need to know who is being served, how, and where. In many cases, this updating will be done with correspondence.

Following are examples of the types of correspondence that may be used. In each case, a sample letter from Montgomery County Schools is found in the noted appendix. [*Note:* These documents are samples; the exact format does not need to be followed.]

- **Reevaluation letter**. School districts are required to conduct an annual review of each child's services plan. If the school district continues to designate a child as one of the private school students to receive services, parents are contacted to determine if they want their child to continue receiving services. A sample letter to parents is found in **Appendix 3-F**, *Service Follow-up for Annual Review to Parent*. A similar letter addressed to the public school principal is found in **Appendix 3-G**, *Service Follow-up for Annual Review to School*.
- **Continuation of services letter**. Once a determination has been made to continue services, parents are formally contacted. A sample letter is found in **Appendix 3-H**, *Continuation of Services Parent Letter*. A similar letter addressed to the public school principal is found in **Appendix 3-I**, *Continuation of Services Administrator Letter*.

Practice 3-11

Facilitating Participation of Private School Representatives in Developing a Child's Services Plan

The LEA must ensure that a representative of the religious or other private school attends each services plan meeting, and if the representative cannot attend, the LEA must use other methods to ensure participation by the private school, including individual or conference telephone calls.

What additional methods may be used to facilitate participation of private school representatives in developing a child's services plan? Take a few minutes and reflect on this situation. Consider the following:

- **Time**. Is the meeting scheduled at a convenient time? Will the private school representative be expected to meet during regular work hours? Has the private school representative been given sufficient notice of the meeting date?
- **Location**. Is the meeting scheduled in a convenient location? Will parking be provided at the meeting site?
- **Knowledge of the student**. Is the private school representative familiar with the student? Does the individual have an understanding of the evaluation and eligibility procedures? Does the private school representative have knowledge of the general education curriculum?
- **Familiarity with the child's private school program**. Does the representative have a solid idea of what the student's school day looks like? If the representative is not the child's teacher, has he or she talked with the child's teachers about expectations?
- **Familiarity with the district**. Has the public school contacted the private school representative prior to the meeting? Do all parties understand expectations?

Make a list of practices that may enhance participation. If working in a group, ask participants to form small groups of four members. Have them generate ideas as a small group before sharing with the large group.

APPENDIX 3-A

Test Your Knowledge of Service Delivery

Answer each question with either a "Yes" or a "No."

___ 1) Are there any particular kinds of services, and specified amounts of services, to be provided to parentally placed private school children with disabilities under Part B?

___ 2) Does the LEA make the final decision about which eligible children will receive services, the services to be provided to eligible parentally placed private school children with disabilities, and where the services will be provided?

___ 3) Can the LEA make decisions that affect the opportunities of parentally placed private school children with disabilities to participate in services provided under Part B requirements to those children prior to consultation with private school representatives?

___ 4) Does IDEA Part B specify which individuals are "appropriate representatives" of parentally placed private school children with disabilities?

___ 5) Is it possible for an LEA, through consultation with appropriate representatives of parentally placed private school children with disabilities, to provide only certain direct services to those parentally placed private school children with disabilities designated to receive services?

___ 6) Is it possible for an LEA, through consultation with appropriate representatives of parentally placed private school children with disabilities, to determine that it will provide no direct services to its eligible parentally placed private school children with disabilities, but that instead, the LEA will provide consultative services, or equipment and teacher training?

___ 7) Could an LEA, through consultation with appropriate representatives of parentally placed private school children with disabilities, decide to provide services that address some of the needs of parentally placed private school children with disabilities?

___ 8) Is there any requirement for parentally placed private school children with disabilities to have IEPs?

Accompanies
Practice 3-1

APPENDIX 3-A

[Test Your Knowledge of Service Delivery, continued]

___ 9) Must services plans be in place for all eligible parentally placed private school children with disabilities residing in the LEA's jurisdiction?

___ 10) Are the requirements for children with disabilities aged 3 through 5 who are placed by their parents at private preschool programs, including home day care programs, the same as the requirements for children with disabilities parentally placed at private elementary and secondary schools?

___ 11) Are children with disabilities placed by their parents at private schools entitled to a free appropriate public education at the private school?

___ 12) Are there any particular qualifications that are applicable to personnel who provide special education or related services to those parentally placed private school children with disabilities LEAs elect to serve?

Accompanies
Practice 3-1

APPENDIX 3-B

Who Am I?

Assistive Technology Devices and Services

Audiology

Counseling Services

Medical Services (for diagnostic or evaluation purposes)

Occupational Therapy

Orientation and Mobility Services

Parent Counseling and Training

Physical Therapy

Psychological Services

Recreation

Rehabilitation Counseling Services

School Health Services

Social Work Services in Schools

Speech-Language Pathology Services

Transportation

Accompanies
Practice 3-2

APPENDIX 3-C

Getting the Word Out

To provide additional input into the consultation process, private school and/or public school personnel may wish to hold a general meeting of constituents. At this meeting, participants are encouraged to share their perspectives on the provision of services to parentally placed private school students with disabilities.

Following is a sample memo and flyer used by the Archdiocese of Washington that encourages private school principals and other stakeholders to attend a meeting. Note how the author does the following for the meeting:

- Identifies the purpose.
- Provides a context within IDEA.
- States an outcome for participation.
- Lists a contact person.

Accompanies
Practice 3-4

APPENDIX 3-C

[Getting the Word Out, continued]

Sample Letter

TO: Principals

FROM: Pamela Allen

Director of Educational Support Services, Archdiocese of Washington

RE: Charles County Public Schools Special Education Meeting

A meeting will be held on May 8, 2002 (Wednesday) at 6:00 p.m. at St. Peter's School, 3310 St. Peter's Drive, Waldorf, Maryland, to discuss the Memorandum of Understanding (MOU) that was developed by Charles County Public Schools (CCPS). This MOU was created in the fall of 2001 by CCPS and addresses the special education and related services they will provide for children with disabilities that are parentally placed in private schools.

Many students attend Catholic schools outside of their county of residence, therefore it is important that all schools that educate children who reside in Charles County receive this information, regardless of where the schools are located.

According to the Individuals with Disabilities Education Act (IDEA), the public school system is required to consult with appropriate representatives of children in private schools to determine which children will receive services, what services will be available, where and how often they will be provided, and how those services will be evaluated. Therefore, the Catholic Schools Office will be holding a meeting for all interested parties who would like to provide feedback on the MOU. The feedback will be given to the Department of Education at CCPS as part of the consultation process that must occur according to the IDEA.

We encourage you to invite the teachers in your school as well as any parents who might be interested in attending. A flyer is included for you to photocopy and distribute throughout your school community. Please make sure that all parents and teachers receive this information, not just those who have children with identified disabilities in their classes or at home. It is very important that all members of the Catholic school community have an opportunity to be involved with this process if they so desire.

Please contact me if you have questions.

Accompanies
Practice 3-4

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APPENDIX 3-C

[Getting the Word Out, continued]

Sample Meeting Notice

TO: Principals

FROM: Pamela Allen

Director of Educational Support Services, Archdiocese of Washington

RE: Meeting Charles County Public Schools Special Education

Notice

Special Education Services from Charles County Public Schools (CCPS)

Purpose

- Provide CCPS with feedback relative to serving children with disabilities attending private schools.
- Review and discuss the Memorandum of Understanding (MOU) generated by CCPS regarding services the County will provide for children with disabilities that are enrolled by their parents in private schools.
- Make recommendations for the development of future MOUs.

As required under the Individuals with Disabilities Education Act (IDEA), public schools must consult with appropriate representatives of children with disabilities attending private school to discuss:

- Which children will receive services?
- What services will be provided?
- How will the services be provided?
- Where will the services be provided?
- How will the services be evaluated?

Who should attend?

- School personnel serving children who reside in Charles County, Maryland (e.g. principals, teachers, guidance counselors, etc.).
- Parents of students with identified or suspected disabilities who reside in Charles County, Maryland.
- Anyone who is interested in the public school consultation process required under the IDEA.

DATE: May 8, 2002

TIME: 6:00 p.m.

LOCATION: St Peter's School
3310 St. Peter's Drive
Waldorf, MD 20601

For Additional Information

Pamela Allen
Director of Educational Support Services
Archdiocese of Washington

Accompanies
Practice 3-4

APPENDIX 3-D

Sample Letter to Private Schools: Statement of Understanding

Dear Principal/Headmaster:

Enclosed you will find two sets of information outlining special education services provided by Montgomery County Public Schools (MCPS) to children and students who are not enrolled in MCPS.

The first document is a copy of the most current Agreement Between Montgomery County Public Schools and Private-Religious Schools. This document outlines the services available for school age children who are attending educational programs other than those provided by and through MCPS. The second set of documents describes services available to all preschool children through the MCPS Child Find/Early Childhood Disabilities Unit and Montgomery County Infants and Toddlers Program.

Please share this information with your staff and the families of the children enrolled in your school program. I appreciate your assistance in this matter. If you have questions, please contact Mr. David Cross, team leader, Assessment Unit, Division of Placement and Assessment Services.

Accompanies
Practice 3-5

APPENDIX 3-E

What Would You Do Differently?

In each of the following vignettes, some aspect of the process has not worked to one or more of the stakeholder's expectations. Review the vignettes by:

- Identifying those areas which might be improved.
- Making suggestions for what might be done differently.
- Checking your suggestions against the IDEA Regulations.

Vignette 1: Carlton

Three years ago, Carlton was identified and evaluated through Child Find activities as a child with mental retardation. The public school district—along with Carlton's parents—prepared an IEP for Carlton. After much reflection, Carlton's parents decided to keep Carlton in his private school. The public school district designated Carlton to be one of the private school students with disabilities to receive some services and a services plan was developed.

For the last three years on a weekly basis, Carlton has been receiving speech and language services from his home school. Carlton is preparing to enter middle school in the fall. His private school resource teacher is concerned that Carlton's needs are such that he may benefit from the integration of functional life skills into his educational program. She has discussed this concern at length with Carlton's parents, who are beginning to wonder if Carlton's needs might be better met by the public school system.

Carlton's parents requested a reevaluation of Carlton's old IEP (completed prior to his services plan) with the goal of obtaining a more current and complete assessment of his educational needs—including any

Accompanies
Practice 3-8

APPENDIX 3-E

[What Would You Do Differently?, continued]

life skills the public school system believed should be included in his IEP. At the meeting to discuss this, a decision was made that no additional assessment data were necessary to determine Carlton's eligibility for special education and related services. He was, as one member of the team pointed out, "still mentally retarded." The parents' desire for a new, comprehensive assessment was denied, the rationale being that it would show nothing new relative to the services provided by the district to parentally placed private school children with disabilities—which in this case was speech and language services.

Vignette 2: Monique

The IEP team assured Monique's parents that even though the private school teacher was not present, they would be able to write a services plan with the existing data. The only information they had from the private school was an oral statement from the private school resource teacher that Monique, a fourth grader with learning disabilities, was working on about a first grade level academically. The parents left the meeting without the services plan being completed. About three weeks later, the services plan arrived in the mail. It contained no information on Monique's present levels of performance and no input from Monique's private school classroom teacher.

Accompanies
Practice 3-B

APPENDIX 3-F

Sample Service Follow-up for Annual Review to Parent

Dear NAME:

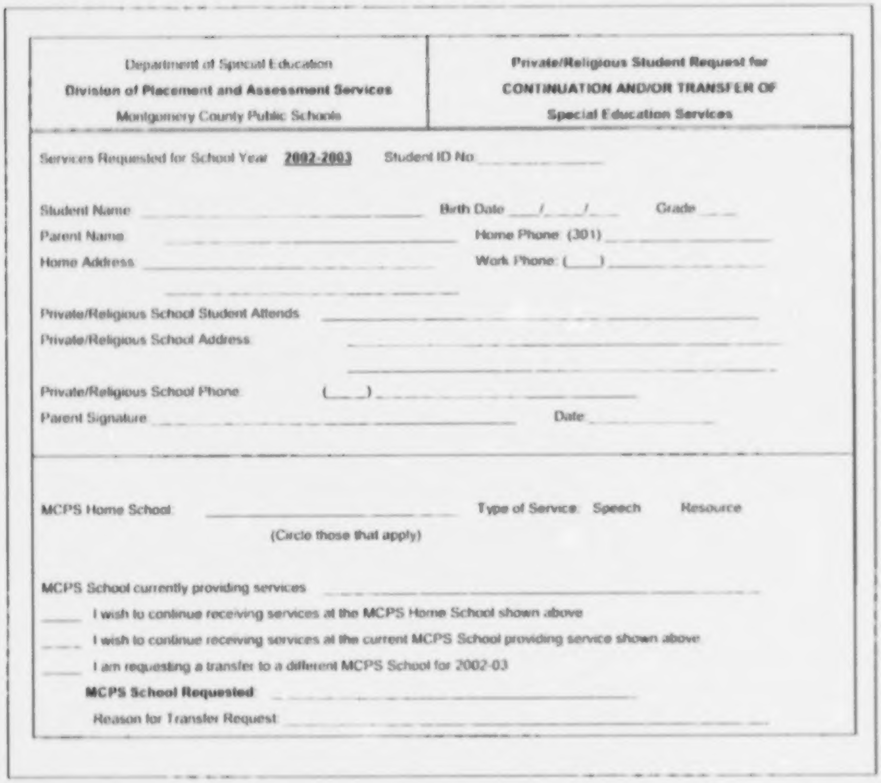
As you know, your child has been receiving special education services through Montgomery County Public Schools (MCPS) during the 2001-2002 school year. Within the next few months, you will participate in an annual review meeting to review your child's special education needs for the 2002-2003 school year. If the Individualized Education Program (IEP) team recommends special education services for your child and you would like to continue receiving those services through MCPS under the Private/Religious School Agreement, you should complete the enclosed Continuation of Service form and return it along with page 13 of your child's IEP to me at the above address.

Your child will be enrolled for special education services as specified on your child's Private/Religious School Services Plan for the 2002-2003 school year once you have returned this information. If you have any questions regarding this process, please contact me. We wish your child a successful school year.

Accompanies
Practice 3-10

APPENDIX 3-F

[*Sample* Service Follow-up, continued]



Department of Special Education **Division of Placement and Assessment Services** Montgomery County Public Schools	**Private/Religious Student Request for** **CONTINUATION AND/OR TRANSFER OF** **Special Education Services**

Services Requested for School Year **2002-2003** Student ID No ________

Student Name ________ Birth Date ___/___/___ Grade ___
Parent Name ________ Home Phone (301) ________
Home Address ________ Work Phone (___) ________
____

Private/Religious School Student Attends ________
Private/Religious School Address ________
____

Private/Religious School Phone (___) ________
Parent Signature ________ Date ________

MCPS Home School ________ Type of Service: Speech Resource
(Circle those that apply)

MCPS School currently providing services ________
____ I wish to continue receiving services at the MCPS Home School shown above
____ I wish to continue receiving services at the current MCPS School providing service shown above
____ I am requesting a transfer to a different MCPS School for 2002-03
MCPS School Requested ________
Reason for Transfer Request ________

Sample Form: Different information may be collected by the school district in your area.

Accompanies
Practice 3-10

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APPENDIX 3-G

Sample Service Follow-Up for Annual Review to School

TO: Principal [School Name]

The following student(s) received service in your school under the Private/Religious School Agreement during the 2001-2002 school year.

Student	ID#	Private/Religious School	Home School

As you know, an annual review must be conducted for each of these students. If the Individualized Education Program (IEP) team recommends special education services for the student for the 2002-2003 school year and the parent wishes to continue those services through Montgomery County Public Schools (MCPS), the parent should complete the attached Continuation of Services form and return it along with page 13 of the student's IEP. Return all of this information to me. Once this information has been received, the student will be enrolled for special education services as specified in the Private/Religious School Services Plan for the 2002-2003 school year. If you have questions, please contact me.

Accompanies
Practice 3-10

APPENDIX 3-H

Sample Continuation of Services Parent Letter

Dear [NAME]:

This letter is to notify you that I received your request for continuation of special education services under the private/religious school agreement for your child [NAME]. Service will be continued/provided at [NAME] School for the 2002-2003 school year. Please contact [NAME], principal, to arrange for services for your child. If this office can be of any further assistance, please call Mr. David Cross, team leader, Assessment Unit. We wish your child a successful school year.

Accompanies
Practice 3-10

APPENDIX 3-I

Sample Continuation of Services Administrator Letter

TO: Principal [NAME]

RE: Continuation of Services for Students in Private/Religious Schools

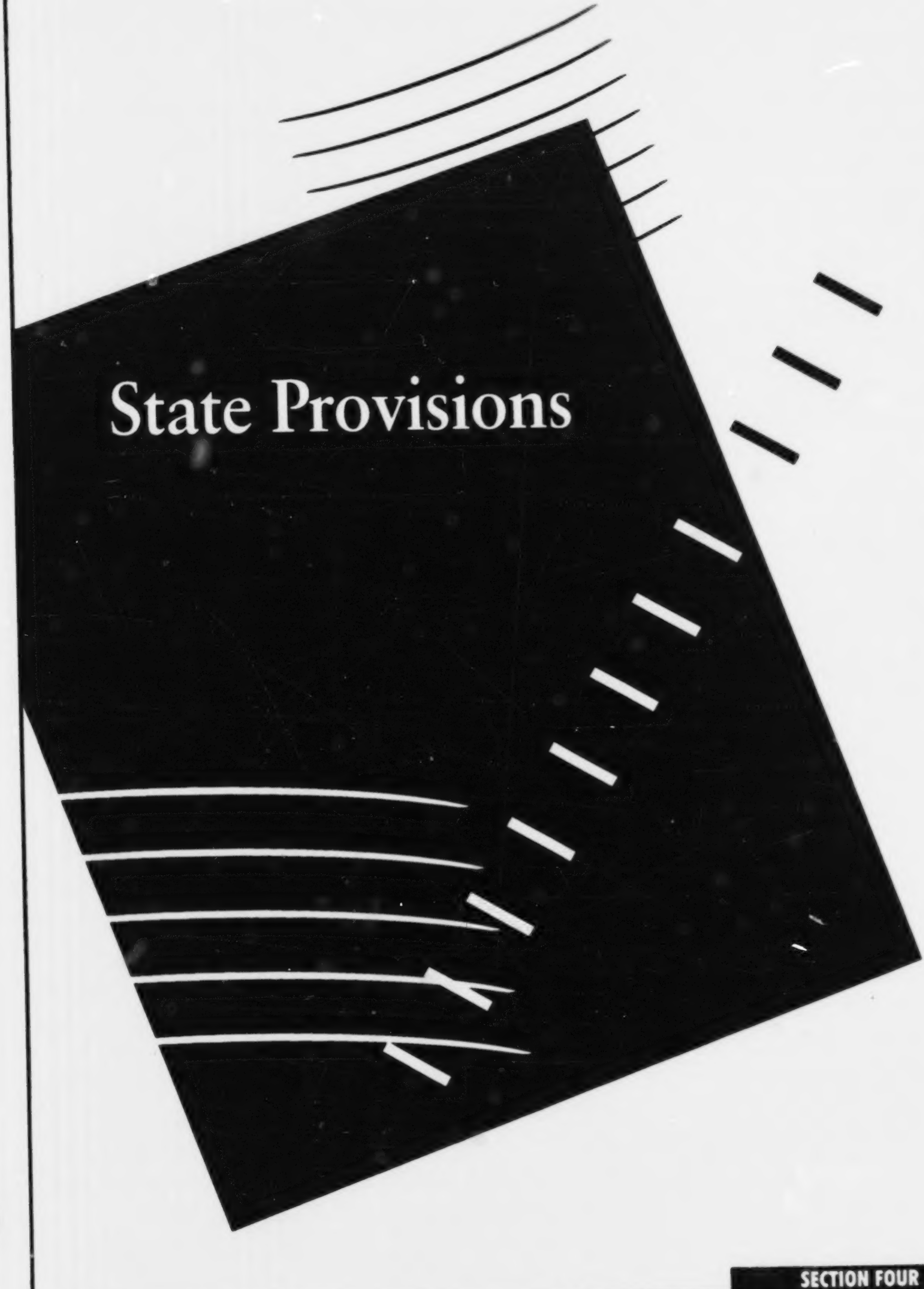
The following student(s) will continue to receive services in your school for the 2002-2003 school year:

Student	ID#	Private/Religious School	Home School

Appropriate special education providers will need to review the Private/Religious and Home-School Students Services Plan, keeping in mind that the private/religious school agreement provides for speech/language services and/or special education resource services. Please contact the parents to arrange to implement the services plan.

If you have any questions, please contact Mr. David Cross, team leader, Assessment Unit. Thank you for your cooperation.

Accompanies
Practice 3-10



State Provisions

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SECTION 4

State Provisions Affecting Parentally Placed Private School Students with Disabilities

IDEA sets a minimum legal standard of practice. What other provisions affect one's work with parentally placed private school children with disabilities?

IDEA makes clear that nothing in the law prevents a local education agency (LEA) from providing more services than are legally required. Many states also have state laws that provide for greater rights and legal entitlements than the IDEA.

For example, some states, such as Texas and Idaho, have dual enrollment state statutes allowing students, including students with disabilities, who attend private schools also to enroll in the public school and receive desired services, which may include special education. The State of Kansas provides children with disabilities enrolled in private schools with all special education and related services identified in their IEPs. In Kansas, such services are provided at a public school on an equal basis or at a private school up to the average cost of providing the services in the public schools.

It is, therefore, important to review state law and local school district policy in addition to IDEA Regulations.

Information-Building Practices

The following practices are offered to assist stakeholders in building knowledge about their state regulations pertaining to parentally placed private school children with disabilities. In all cases, the practices presented are only suggestions and/or illustrations of what other stakeholders have found useful.

The practices included in this section address general information related to familiarizing oneself with state regulations. Practices are organized as follows:

Suggestions for Understanding State Regulations

- Practice 4-1: Retrieve your state regulations.
- Practice 4-2: Compare state regulations with IDEA Regulations.
- Practice 4-3: Bookmark state web sites.

Practice 4-1 *Retrieve Your State Regulations*

Locate your state regulations. This can be done in one of several ways:

- Locate the state web page for information.
- Call the State Department of Education and ask for the office or department of special education.
- Contact your organization's main office and ask to speak to the office or individual who oversees special education.
- Go to the NICHCY web site at **www.nichcy.org** and select State Resources. Follow directions on how to access your state web site.
- Go to the U.S. Department of Education web site at **http://bcol02.ed.gov/Programs/EROD/org_list.cfm?category_ID=SEA** and follow the directions on how to access your State Education Agency (SEA).

Once you have the state regulations, consider having them three-hole punched and inserted in this notebook for easy reference.

Practice 4-2 *Compare State Regulations with IDEA Regulations*

Some states and districts prepare side-by-side analyses of IDEA and their state regulations. An illustration is the State of Texas web site at **www.tea.state.tx.us/special.ed/private/**. In an article, *Private School Questions and Answers*, Texas law is related to each of the OSEP Memorandum questions and answers.

If your state does not have a side-by-side, consider developing one. Or, ask your local school district special education office if they might be willing to assist with the activity.

If working in a group, ask participants to form small groups of four members and develop a side-by-side visual. To do this, have copies of the relevant IDEA Regulations (see **Appendix 1-A**, *IDEA Regulations:*

Parentally Placed Private School Children with Disabilities in Section 1 of this toolkit) and the state regulations available for participants. After groups have completed the task, ask them to compare their work.

Practice 4-3 *Bookmark State Web Sites*

Some states provide information pertaining to parentally placed private school children with disabilities on their web sites. For example, the State of North Carolina [**http://www.doa.state.nc.us/**] prepares information under the headline, *News From the U.S. Department of Education Office of Non-Public Education*.

Check to see if your state provides information on the topic. If so, bookmark the web site address and visit it often. If your state does not have information posted about parentally placed private school children with disabilities on its web site, write to the agency and suggest how it might do so.

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IDEA Local Implementation by Local Administrators Partnership

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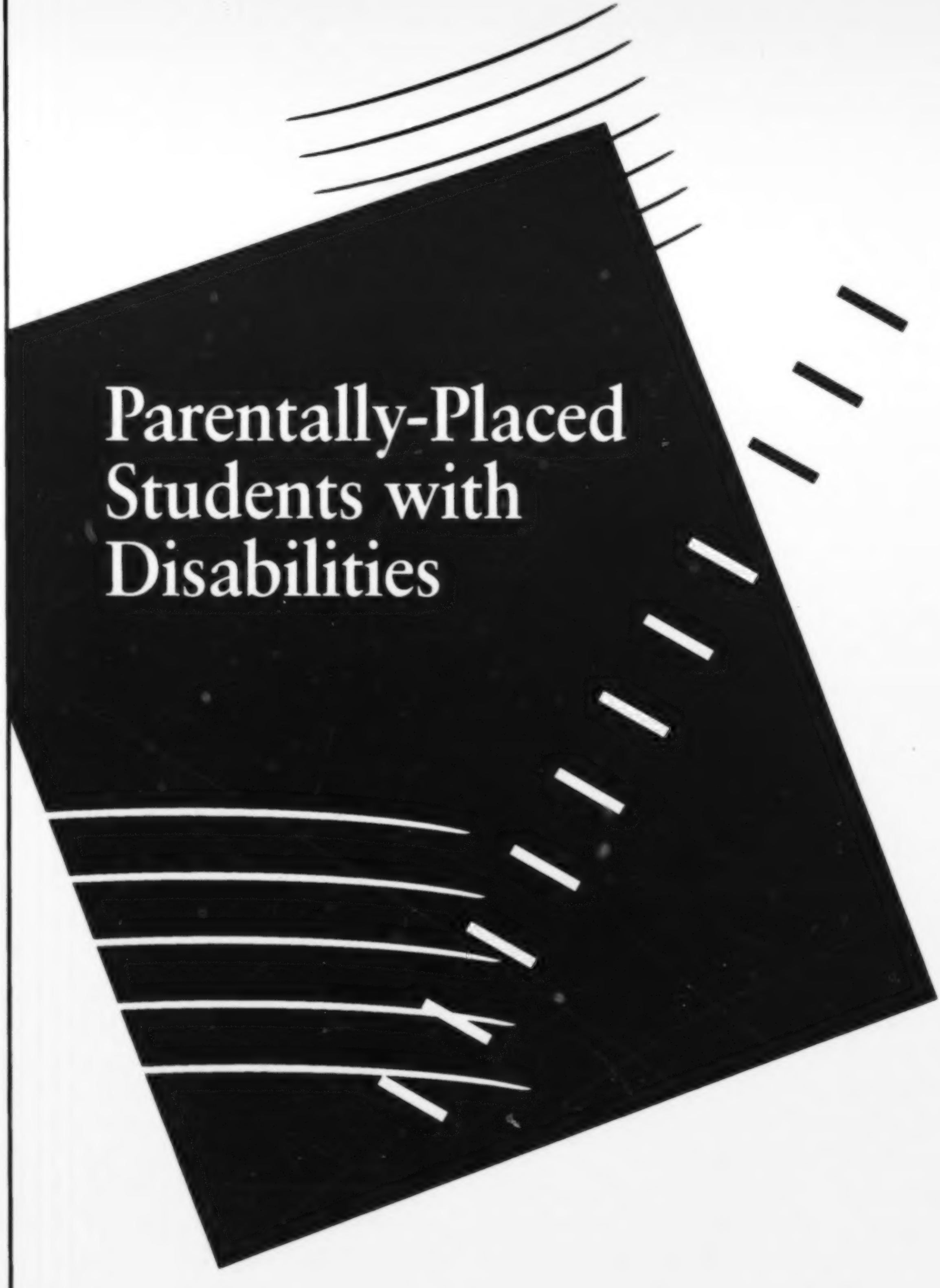

Parentally-Placed Students with Disabilities

SPECIAL INSERT

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Parentally-Placed

STUDENTS WITH DISABILITIES

THE URBAN SPECIAL EDUCATION
LEADERSHIP COLLABORATIVE

Council for Exceptional Children

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[1] IDEA Local Implementation by Local Administrators Partnership

[2] Associations of Service Providers Implementing IDEA Reforms in Education PartnershipFamilies and Advocates Partnership for Education, The Policymaker Partnership

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Parentally-Placed Students with Disabilities was developed by The Urban Special Education Leadership Collaborative (USELC), a proud member of the ILIAD Partnership Project. The following individuals provided leadership on this project:

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This document is available in alternative format, upon request, Braille, large print, and diskette.

Introduction

The law and practices regarding the provision of special education and related services to students with disabilities placed by their parents in private schools have developed over the past several years as a result of court cases and administrative policy interpretive guidance. Until the 1997 Amendments to the Individuals with Disabilities Education Act (IDEA), neither the federal statute, nor the applicable federal regulations (34 C.F.R. Part 300) addressed this issue in detail.

This article is intended to provide an overview of the IDEA, its regulations, and relevant case law regarding parentally-placed students with disabilities in private schools. The article will address what the rights and responsibilities under the IDEA are in identifying and providing special education services to parentally-placed private school students with disabilities. This topic should be distinguished from other situations where a student with a disability is receiving services from a private school. If the public agency places a student with disability in a private school as a means of fulfilling the school's obligations to provide a free appropriate public education (FAPE), the student maintains an individual legal entitlement to services and the parents have full access to all the procedural safeguards provided by the IDEA. In addition, when the parents have made a "unilateral placement" of the student in a private school when the provision of a free appropriate public education is an issue, the parents may seek full reimbursement for all costs associated with that placement from a hearing officer or a court.

The reader of this article should also be aware that many states have state laws that provide for greater rights and legal entitlements than the IDEA. For example, some states such as Texas and Idaho have dual enrollment state statutes allowing students, including students with disabilities, who attend private schools to also enroll in the public schools and receive desired services, which may include special education. Therefore, state law and local school district policy should also be reviewed.

Early Judicial Decisions

One of the first court cases to address the issue of what, if any, legal obligation a school district had under the IDEA to provide special education services to a parentally-placed private school student with a disability was handed down by the United States Court of Appeals for the Fourth Circuit. The case, Goodall v. Stafford County School Board, 17 Individuals with Disabilities Law Report (IDELR) 745 (1991), involved a student with a profound hearing impairment who was placed by his parents in a parochial school. The school district offered to provide special education and related services pursuant to an IEP in the local public school. The parents initiated legal action when the school district refused to provide a cued speech interpreter at the private school. The Court upheld the school district's position stating that it met its obligations under the Education for All Handicapped Children's Act (now the IDEA) by offering the student special education and related services at the public school site.

The United States Supreme Court, in 1993, addressed the issue of whether the provision of a sign language interpreter by a public school district on site in a parochial school would violate the Establishment Clause of the First Amendment to the Constitution which provides for the separation of church and state. In Zobrest v. Catalina School District, 19 IDELR 921 (1993), the Supreme Court held that a school district is not prohibited by the United States Constitution from providing a sign language interpreter to a student with a disability who is attending a parochial school. The Supreme Court's decision never addressed, however, whether the school district was obligated, under the IDEA, to provide such services. The decision clarified that the Constitution did not stand in the way of a district's choice to provide such service. In so doing, the Court noted that there is a distinction between the tasks of a sign language interpreter who acts as a transmitter of what is said and that of a teacher or guidance counselor.

Early United States Department of Education Guidance

Initially, the guidance on this topic was in the form of interpretive policy letters issued by the Office of Special Education Programs (OSEP) of the United States Department of Education applying the Educational Department General Administrative Regulations (EDGAR) to the provision of special education services under the IDEA. See for example OSEP Letter, 16 IDELR 1398 (1990). The United States Department of Education took a more formal position in 1994 when it submitted an amicus brief in a case from the Eleventh Circuit, Tribble v. Montgomery County Board of Education, July 1992. The brief was distributed to the public as an OSEP Memorandum (OSEP Memorandum 94-17, April 13,1994) which reiterated the Department's long standing position on this issue.

At issue in Tribble was whether the school district was required by the IDEA to provide a parentally-placed preschool student with a disability with the equivalent special education and related services he would receive if he attended a public school program. The Memorandum states:

> *... the United States articulates the Department's longstanding interpretation of the requirements of Part B that children with disabilities placed in private schools by their parents do not have an individual entitlement to services under Part B, but that private school children as a group must be afforded a genuine opportunity for equitable participation in special education programs conducted by local school districts.*

Significant Judicial Decisions Preceding the 1997 Amendments to the IDEA

Prior to 1997, the courts were in disagreement as to what, if any, special education services were due students with disabilities when they were placed in private schools by their parents. The two leading judicial decisions on the issue were from the Seventh and Second Circuits.

The United States Court of Appeals, Seventh Circuit, in K.R. v. Anderson Community School Corporation, 23 IDELR 1137 (1996), in overturning the lower court's decision, held that the IDEA does not entitle students with disabilities placed in private schools by their parents to a comparable range of special education services they would receive if enrolled in a public school. In this case, the parents were requesting the services of an instructional assistant on the premises of the parochial school where they enrolled their child. According to the Court, the IDEA gives the school district discretion to decide what services will be offered in order to provide private school students with a "genuine opportunity for equitable participation" in programs under Part B of the IDEA.

On the other hand, the United States Court of Appeals, Second Circuit, in Russman v. Board of Education of the Enlarged City School District of the City of Watervliet, 24 IDELR 274 (1996), ordered a school district to provide a student with disabilities parentally-placed in a private school with the services of a consulting teacher and teaching aide on site in the parochial school. In doing so, the Court determined that the IDEA rights of private school students with disabilities were "more consistent with mandatory entitlement than with discretionary authority" suggested by OSEP and other judicial decisions.

Both cases were appealed to the United States Supreme Court while the Congress was in the process of reauthorizing the IDEA. The reauthorization process was completed by the Congress and the President signed IDEA '97on June 4,1997. The Supreme Court, in June 1997, vacated the decisions and remanded the cases back to the Courts of Appeals "for further consideration in light of the Individuals with Disabilities Education Act Amendments of 1997."

The 1997 Amendments to the IDEA (IDEA '97)

IDEA Amendments Act of 1997 detailed the fiscal scope and services for parentally-placed private school students with disabilities. The statutory provision states:

> *To the extent consistent with the number and location of children with disabilities in the state who are enrolled by their parent in private elementary and secondary schools, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children's special education and related services in accordance with the following requirements …*

- Amounts expended for the provision of those services by a local educational agency (LEA) shall be equal to a proportionate amount of federal funds made available under this part.
- Such services may be provided to children with disabilities on the premises of private, including parochial schools, to the extent consistent with law.

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- The requirements ... relating to child find shall apply with respect to children with disabilities in the State who are enrolled in private, including parochial, elementary and secondary schools. 20 U.S.C. Section 1412 (a)(10).

Reconsideration of the K.R. and Russman Decisions

The Seventh and Second Circuits reconsidered their previous decisions in light of the IDEA '97 and reached consensus on the obligation to provide special education services to parentally-placed private school children with disabilities.

The Seventh Circuit upheld its previous ruling finding that the IDEA '97 requires school districts to offer FAPE to all students with disabilities. However, if FAPE is offered at a public school and the parents voluntarily choose to enroll their child in a private school, the school district is not obligated to offer "comparable" services at the private school. The Court also rejected the parent's assertion that the district, by refusing to provide the services at the parochial school, infringed upon the student's exercise of religion. K.R. v. Anderson Community School Corporation, 26 IDELR 864 (1997).

The Second Circuit reversed its original opinion and concluded that the school district was not obligated under the IDEA to provide special education and related services to voluntarily enrolled private school students. According to the Court, the IDEA '97 only requires that a district provide private school student with disabilities special education services using a proportionate amount of federal Part B funds. Although school districts are permitted under the IDEA to furnish on site services, the language of the statute is permissive. Russman v. Mills, 28 IDELR 612 (1998). See also Cefalu v. East Baton Rouge Parish School Board, 26 IDELR 166 (United States Court of Appeals, Fifth Circuit (1997)).

The IDEA Regulations (34 C.F.R. Part 300)

Although the basic issues were addressed through the statute and judicial decisions, many implementation issues remained unresolved until the United States Department of Education promulgated the final IDEA regulations in March 1999.

Reference in the following summary is made to both specific IDEA regulatory sections (Part 300 of Title 34 of the Code of Federal Regulations) and to the Analysis and Comments to the IDEA Regulations contained in the Federal Register of March 12, 1999. The Analysis and Comments summarize the United States Department of Education's intent in promulgating the regulations.

It should also be emphasized that the IDEA sets a minimum legal standard of practice. The IDEA regulations make clear that nothing in the IDEA prevents a LEA from providing more services than are legally required. Again, it is important to also be aware of any applicable state law or local district policy that may require the LEA to provide more services than are required under the IDEA.

Recent OSEP Policy Guidance

The Office of Special Education Programs has issued a technical assistance document (OSEP Memorandum 00-14, May 4, 2000) in a question and answer format to assist families of students with disabilities, state and local education officials and private school representatives to better understand the IDEA requirements. Excerpts from this Memorandum are included in the following discussion.

Summary of Current IDEA Requirements

Child Find

The regulations underscore that local educational agencies maintain the responsibility to engage in child find activities in locating, identifying, and evaluating children, who are legal residents of the LEA as provided for under state law, who may have a disability and be in need of special education services regardless of whether they are enrolled in a public school. 34 C.F.R. §§300.125 (a)(1)(i) and 300.451. In doing so, the LEA must consult with appropriate representatives of private school students with disabilities on how to carry out child find activities for private school students.

The child find activities that the LEA engages in for private school children must be comparable to the activities that it uses to evaluate students in the public school. Therefore, parents are entitled to the procedural safeguards that apply including the right to participate in evaluation and eligibility meetings, be provided with a copy of the Evaluation Report and eligibility determination, be provided with prior written notice of proposed or refused actions, and be asked to provide informed written consent for the initial evaluation. In addition, parents have the right to request a due process hearing to challenge decisions pertaining to the identification and evaluation of their child.

The determination that a private school student has a disability and is in need of special education services, however, does not result in an entitlement to IEP services unless the student then enrolls in the public schools. Under the IDEA statute and regulations, a student with a disability who is placed by his/her parents in a private school has no individual legal entitlement to receive some or all of the special education and related services they would receive if enrolled in a public school. Parents must be informed by the LEA that, should they enroll their child in the public school, the school will provide a free appropriate public education. 34 C.F.R. §§300.300, 300.454.

Under recent OSEP policy guidelines, if a determination is made that a student in a private school is eligible for special education services, the general rule is that the LEA must convene an IEP Team to develop an IEP for the student. This provides the parents with specific information regarding what a free appropriate public education would be for their child so that they can decide whether to maintain the private school placement or to enroll their child in the public school to receive IEP services. The exception to this requirement would occur if the parents clearly indicate their intent to enroll or to maintain their child in the private school and are not interested in considering a public program or placement. In such a case an IEP would not need to be developed. (See Question 8, OSEP Memorandum 00-14).

Service Determination

The LEA is required to consult with appropriate representatives of private school students with disabilities, in a timely and meaningful way, regarding the number of private school students with disabilities, their needs and location in order to decide: which students will receive services, what services will be provided, how and where the services will be provided and how the services will be evaluated. 34 C.F.R. §300.454(b). The law leaves discretion for the LEA to determine who would be appropriate representatives of such students. Appropriate representatives may include parents, teachers, as well as building or central office administrators. (See Question 25, OSEP Memorandum 00-14).

The Analysis and Comments to the regulations clarify that the LEAs and States determine the appropriate period between consultations based on circumstances in each jurisdiction. An annual consultation is not automatically required.

Based on the information received, the LEA determines what services and which students will receive special education and related services using a proportionate amount of their IDEA Part B grant.

The proportion is based on the number of private school children with disabilities (ages 3 through 21) residing in the LEA compared to the total number of children with disabilities (ages 3 throught 21) residing in the LEA. The number of private school children with disabilities used to calculate the proportionate share is based on *the total number of private school children* identified through child find as being eligible for special education services, not just the number of such students who are receiving special education or related services in accordance with a services plan. (See Question 15, OSEP Memorandum 00-14).

For example, if the LEA has 1,000 children with disabilities and of those children, 50 have been placed by their parents in private schools, the LEA would be required to spend on providing special education and related services, an amount that at least equals 5% or (50/1,000) of its Part B sub-grant. The LEA needs to determine such proportionate share of both:

- the LEA's General Part B subgrant for students with disabilities ages 3 through 21, and
- the LEA's Preschool (Section 619) subgrant for students with disabilities ages 3 through 5.

In determining whether the LEA has met this minimum expenditure requirement, the LEA can use local, state and/or federal funds to provide the services. 34 C.F.R. §300.453. Note that any costs incurred as a result of child find activities are not included in the above analysis.

Based on the information received from the consultation with appropriate representatives of private school students with disabilities previously discussed, the LEA will decide the type and location of services that will be provided to students with disabilities in private schools.

In so doing, the LEA may consider providing direct services, consultative services or both. The location of the student is also a possible factor in determining what, if any, service to offer. It may be reasonable, as a result of the consultation process, for a LEA to elect not to provide services to students who attend a private school outside of the district. (See Question 37, OSEP Memorandum 00-14)

Services Plans

For those students who will receive some special education and/or related services as determined by the LEA, the LEA will develop a services plan instead of an Individualized Education Program (IEP). The services plan must specify what services will be provided (which may be less than the student would receive if enrolled in a public school) and be developed, reviewed and revised by the same participants who develop IEPs. A representative of the private school shall be invited to attend the meeting to develop the child's services plan and if unable to do so, the LEA shall use other methods, such as conference calls, to ensure their participation. 34 C.F.R. §300.455(b). The services, which the private school students receive, must be provided by personnel meeting the same standards as personnel providing services to students in public schools.

Location of Services

The LEA, after considering the information received from consultation with representatives of private school children, determines the location of services.

The services may be provided on site, at the public school or a neutral location. 34 C.F.R. §300.456. This may include services on site at a parochial school, to the extent consistent with law, as will be addressed later in this paper.

Should transportation be required for the private school student with disabilities to benefit from or participate in the services provided under their services plan, such transportation must be provided. Such transportation may include transportation from the private school or home to the service site or from the service site to the private school or home (depending on the timing of the service). LEAs are not required to provide transportation from the home to the child's private school. Any transportation costs incurred may be included in calculating the pro-rated amount required to be spent on services. 34 C.F.R. §300.456.

Reevaluations

The reevaluation requirements applicable to public school students with disabilities also apply to private school students with disabilities. Reevaluations must be conducted at least every three years or more often if conditions warrant or the parent or teacher requests. A reevaluation should be conducted of every child with a disability, even if that child was not a child who received service through a Services Plan. The scope of the reevaluation is a decision for the IEP team and informed written parental consent must be sought if the reevaluation will involve more than a review of existing information. If a child has not received service through a Services Plan, it is likely that a review of existing information would not be sufficient for reevaluation purposes. 34 C.F.R. §§300.505, 300.533, and 300.536.

Due Process Rights

Parents have the right to file for a due process hearing only on the issue of child find activities. Parents do not have the right to contest a due process hearing's decisions regarding the services their child will or will not receive. In such a case, parents may file an administrative complaint with the state education agency. 34 C.F.R. §300.457.

Home-Schooled Students

The analysis and comments to the regulations clarify that the IDEA's provision addressing private school students would also apply to students with disabilities who are being home-schooled if state law so provides. If a state considers home schools to be private schools, the above analysis applies. If not, the school district would still have child find responsibilities under the IDEA and if found eligible, would have a responsibility to offer to provide a FAPE should the parents decide to enroll their child in the public school.

Preschoolers

The statutory and regulatory requirements discussed in this paper are fully applicable to children with disabilities aged 3 through 5 placed by their parents at private schools. State law will control whether day care centers and preschools are considered private schools for purposes of this analysis. The same procedures regarding child find, eligibility determinations and service determinations which apply to school-aged students apply to preschoolers. (See Question 38, OSEP Memorandum 00-14).

Services On-Site of a Parochial School

As the 1997 Amendments state, a school district may provide the services it offers students with disabilities who are placed in private schools with services on site of the private school "to the extent consistent with law".

The United States Supreme Court, expanding its holding from the Zobrest decision, held that supplementary instructional services under Title I of the Elementary and Secondary Act may be provided in a religiously affiliated private school without violating the Establishment Clause of the Constitution. Agostini v. Felton (1997). In guidance issued by the United States Department of Education, the Department stated, " ... the implication of the Court's ruling is that there is not a constitutional bar to public school employees providing educational services in private schools under other Federal programs under similar circumstances." Question 25 from Guidance on the Supreme Court's Decision in Agostini v. Felton (United States Department of Education, July 18, 1997).

The Agostini holding was specifically applied to the provision of special education and related services by the United States Court of Appeals, Sixth Circuit, which held that furnishing occupational therapy and physical therapy on the premises of a parochial school did not violate the Establishment Clause of the Constitution. Peck v. Lansing School District, 28 IDELR 472 (1998).

As was noted earlier in the document, some states have laws which may impose limitations on the discretion provided under federal law or exceed the minimum legal standard set by the IDEA. A recent decision from the United States Court of Appeals, Ninth Circuit is illustrative.

The Court in KDM by WJM v. Reedsport School District, 31 IDELR 107 (1999) held that an Oregon regulation mandating that special education and related services must be provided in a religiously neutral setting did not violate the First Amendment. Neither the IDEA nor the Constitution requires that the services be provided on the site of the parochial school. As the Supreme Court noted in Agostini, a school is permitted but not required to provide the services on-site unless there are further restrictions imposed by state law.

Conclusion

In summary, public school officials need to ensure that the LEA has policies and procedures, which provide for:

- ongoing child find and evaluation services for students who are suspected of having a disability and in need of special education who are being home schooled or placed by their parents in a private school.
- timely and meaningful consultation with appropriate representatives of private school students in order to obtain information for considering:
  - which students will receive services;
  - what services will be provided;
  - how and where the services will be provided; and
  - how the services will be evaluated.
- determining the proportionate share of federal special education funds to be used for services
- developing, implementing and reviewing services plans for students with disabilities in private schools who will be receiving special education or related services from the district
- affording selected due process procedures to parents.

As noted in the introduction, many state laws provide for greater rights and legal entitlements than the IDEA and, therefore, readers should review their state law.

As this paper illustrates, the law addressing the provision of special education and related services to students with disabilities placed in private schools by their parents has been evolving over the years due to statutory and regulatory changes and judicial decisions. Further clarification of the law is anticipated.

Appendix I
OSEP Memorandum 00-14

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

MAY 4 2000

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MEMORANDUM

To: Chief State School Officers

From: Kenneth R. Warlick, Director KRW/PG
Office of Special Education Programs

Subject: Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools

In response to requests from the field for a document that restates and consolidates guidance that the Department has provided regarding the nature and extent of school districts' obligations to parentally-placed private school children with disabilities under Part B of the Individuals with Disabilities Education Act (Part B), the attached question and answer document is being issued. Some of the questions contained in this document were raised by individuals who attended the six regional meetings conducted following publication of the final regulations implementing the Individuals with Disabilities Education Act Amendments of 1997, Pub. L. 105-17 (IDEA '97); others were raised subsequent to the issuance of the final regulations. This question and answer document restates the requirements reflected in these final regulations published on March 12, 1999, at 64 Fed. Reg. 12406, and the explanations provided in Attachment 1, Analysis of Comments and Changes, in response to public comments on the proposed regulations applicable to parentally-placed private school children with disabilities.

In determining school district responsibility for children with disabilities in private schools, generally such children are in one of two groups, and public agency responsibility will vary based on the group into which the children fall. The first group includes children with disabilities placed at private schools by public agencies as a means of providing special education and related services. Specifically, if a public agency places or refers a child with a disability to a private school or facility for the purpose of providing a free appropriate public education (FAPE) to that child, the child must receive a program of special education and related services at the private school at no cost to the parents, and the child and his or her parents have all of the rights that they would have if the child were served by the public agency. 34 CFR §300.401. The second group of children includes children with disabilities placed at private schools by their parents, and this second group consists of two subgroups. The children with disabilities in the first subgroup are placed by their parents at private schools when FAPE from a

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public agency program or placement is not at issue, and this subgroup of children, which must be provided special education and related services consistent with their numbers and needs, has no individual entitlement to services under Part B. 34 CFR §§300.403(a) and 300.450-300.462.

The second subgroup includes children with disabilities placed at a private school by their parents without the consent of or referral by the public agency because the parents believe that the public agency has failed to offer their child FAPE. If a hearing officer or court agrees with the parent and finds that there has been a denial of FAPE, the parents may be able to obtain tuition reimbursement for part or all of the cost of their unilateral private school placement. 34 CFR §300.403(c). The specific requirements relating to disputes about FAPE are not addressed by this guidance. Rather, the guidance set forth in this question and answer document focuses on the responsibilities of public agencies to provide for the participation of all children with disabilities placed by their parents in private schools in the Part B program in accordance with 34 CFR §§300.450-300.462.

The Department believes that the right of parents to choose where their children should be educated, whether at public or private school, is extremely important. Nevertheless, the rights of parentally-placed private school children with disabilities under Part B are not the same as those of children with disabilities who are enrolled in public schools and are served at public agency programs or public agency placements at private schools.

In the 1997 reauthorization of IDEA, Congress amended Part B to include explicit statutory provisions that reflect the Department's longstanding interpretations of the obligations of State and local educational agencies (SEAs and LEAs) to parentally-placed private school children with disabilities under Part B and the Education Department General Administrative Regulations (EDGAR). The following is a brief summary of the major applicable provisions in IDEA '97 that are relevant to parentally-placed private school children with disabilities:

(1) Provision is made for the participation of children with disabilities enrolled by their parents in private preschool, elementary, and secondary schools, consistent with their number and location in the State, in the program assisted or carried out under Part B by providing for such children special education and related services;

(2) Activities are conducted to locate, identify, and evaluate children placed by their parents in private schools, including religious schools, who may need special education and related services. This requirement is known as child find;

(3) A proportionate amount of the Federal funds available under Part B is expended for services for parentally-placed private school children with disabilities; and

(4) Special education and related services may be provided to parentally-placed private school children with disabilities on the premises of private, including religious schools, in a manner that does not violate the Establishment Clause of the First Amendment to the U.S. Constitution and is consistent with applicable State constitutions and laws.

20 U.S.C. §1412(a)(10)(A); 34 CFR §300.451-300.462.

Department regulations at 34 CFR §§300.450-300.462, which implement the above statutory provision, also contain some of the general provisions governing the participation of children enrolled in private schools in programs assisted or carried out with Federal education program funds at 34 CFR §§76.651-76.662 of EDGAR that apply to a number of other Department programs.

Let me emphasize that there is nothing in IDEA '97 or the final Part B regulations that alters or diminishes school districts' obligations to ensure the equitable participation of parentally-placed private school children with disabilities in programs assisted or carried out under Part B. Nor is there anything in the Statute or the implementing regulations that is intended to confer an individual entitlement on these children. However, the statute and regulations in no way prohibit States or local school districts from providing services to parentally-placed private school children with disabilities in excess of those required under Part B, consistent with State law or local policy.

The attached questions and answers have been prepared to assist State and local education officials and private school representatives, as well as parents of children with disabilities in understanding the requirements of Part B, as amended by IDEA '97, and the implementing regulations that relate to the participation of parentally-placed private school children with disabilities in programs assisted or carried out under Part B. This question and answer document represents informal policy guidance; however, the statute and regulations upon which it is based are binding on public agencies receiving funds under Part B. Therefore, the statute and regulations which constitute the legal authority for this document--20 U.S.C. §1412(a)(10)(A) and 34 CFR §§300.450-300.462--should be used for legal citation purposes.

We hope that the attached question and answer document is helpful. Please ensure that this document is widely disseminated throughout your State so that this information can be provided to a large variety of interested individuals and organizations. If you or members of your staff have questions, please contact either of the contact persons whose names and telephone numbers are listed at the top of this memorandum.

Attachment

cc: State Directors of Special Education
Federal Resource Center
Regional Resource Centers
Office of Non-Public Education
Secretary's Regional Representatives
National Disability Organizations
Protection and Advocacy Agencies
Parent Training and Information Centers
RSA Regional Commissioners
Independent Living Centers

Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools

I. Child Find

Question 1: What is child find for parentally-placed private school children with disabilities?

Answer: The Individuals with Disabilities Education Act Amendments of 1997, Pub. L. 105-17 (IDEA '97) clarify the Department's longstanding policy and explicitly provide that the child find requirements in section 612(a)(3) of IDEA apply to private school children, including religious school children. 20 U.S.C. §1412(a)(10)(A)(ii). Child find refers to ongoing activities undertaken by SEAs and LEAs to locate, identify, and evaluate all children residing in the State who are suspected of having disabilities under Part B of IDEA (Part B), so that a free appropriate public education (FAPE) can be made available to all eligible children. 34 CFR §§300.121, 300.125 and 300.220. (For parentally-placed private school children with disabilities, the offer of FAPE is accomplished by offering to make available to an eligible child a public agency program or a public agency placement at a private school. Parents can choose not to accept public education in favor of their parental private school placement.) Under Part B, each LEA must conduct child find for all children in public and private schools, including religious schools, residing in the jurisdiction of the LEA, regardless of the severity of their disability, who are in need of special education and related services. 34 CFR §300.451.

In carrying out child find for parentally-placed private school children, SEAs and LEAs undertake activities similar to those undertaken for their publicly enrolled or publicly-placed children, such as widely distributing informational brochures, providing regular public service announcements, staffing exhibits at health fairs and other community activities, and creating direct liaisons with private schools. Once children are identified who are suspected of having disabilities under Part B, LEAs must have procedures for conducting, at no cost to parents, Part B evaluations of such children residing in their jurisdiction within a reasonable period of time and without undue delay.

Since public agencies need to have data to develop an accurate count of the total number of eligible private school children with disabilities residing in their jurisdiction in calculating the proportionate share of their Part B subgrant that must be expended annually for services for these children, child find for parentally-placed private school children with disabilities is particularly important.

Question 2: Can amounts expended for child find, including individual evaluations, be deducted from the required amount of funds to be expended on services for parentally-placed private school children with disabilities?

Answer: No. The statutory provisions regarding child find and participation of parentally-placed private school children with disabilities in programs assisted or carried out under Part B of IDEA are separate and distinct obligations. The child find obligation, including individual evaluations, exists independently from the services provision. (Compare 20 U.S.C. §1412(a)(3) with 20 U.S.C. §1412(a)(10)(A)). Therefore, the costs of child find activities, including individual evaluations, may not be considered in determining whether an LEA has met the annual expenditure requirement for services for parentally-placed private school children with disabilities under Part B. 34 CFR §300.453(c).

Question 3: Must child find for private, including religious-school children be comparable to child find for public school children?

Answer: Yes. Activities undertaken to carry out child find for parentally-placed private school children, including religious-school children, must be comparable to activities undertaken for child find for children in public schools. 34 CFR §300.451(a). This would include the timing of these activities, and LEAS may not delay conducting child find, including individual evaluations, for parentally-placed private school children with disabilities until after child find for publicly-enrolled or publicly-placed children has been conducted. In determining how and when to carry out child find, public agencies must consult with appropriate representatives of parentally-placed private school children with disabilities. 34 CFR §300.451.

Question 4: How can LEAs meet their child find obligations for parentally-placed private school children residing in their jurisdiction, including religious schools?

Answer: LEAs can choose to meet this obligation by conducting the relevant activities or through contract, interagency agreement with some other entity, or through some other arrangement. If such an arrangement were undertaken, the LEA, and ultimately the SEA, still would retain responsibility for ensuring that all applicable Part B requirements are met. Whether an LEA could contract with a private school to conduct certain aspects of its child find, including individual evaluations, would have to be determined on a case-by-case basis.

Question 5: May LEAs restrict their child find activities to children with certain disabilities, and exclude from child find some children, if the LEA determines, through consultation, that it will offer its population of parentally-placed private school children with disabilities only certain specified services?

Answer: No. In conducting child find of all children residing in their jurisdiction, LEAs must identify and evaluate all children suspected of having any disabilities specified in Part B, regardless of whether such children are parentally-placed at private schools, including religious schools. 34 CFR §§300.125 and 300.220. Therefore, LEAs may not exclude children suspected of having certain disabilities, such as those with mild or moderate disabilities, from their child find activities. This is so, regardless of whether State laws or policies specify which children parentally-placed at private schools suspected of having certain disabilities must be evaluated.

Question 6: Once parentally-placed private school children suspected of having disabilities under Part B are identified, are the requirements applicable to evaluations of such children the same as requirements applicable to other children suspected of having disabilities?

Answer: Yes. Evaluations of all children suspected of having disabilities under Part B, regardless of whether their parents have chosen to enroll them in private schools, must be conducted within a reasonable period of time in accordance with requirements at 34 CFR §§300.532-300.535 of the Part B regulations, and the parents must give their informed consent to conduct the evaluation. 34 CFR §300.505(a)(i). Section 300.532 of the Part B regulations sets out minimum evaluation procedures. Among other requirements, evaluations conducted under Part B can be accomplished through tests and other evaluation materials that must be selected and administered so as not to be discriminatory on a racial or cultural basis, and must be provided in the child's native language or other mode of communication unless it clearly is not feasible to do so. 34 CFR §300.532(a)(1)(i)-(ii).

No single procedure can be used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child. 34 CFR §300.532(f). Also, the child must be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. 34 CFR §300.532(g). A review of existing data is part of both the initial evaluation, if appropriate, and a reevaluation. This would include evaluations and information provided by the parents of the child. 34 CFR §300.533(a).

Question 7: Following the evaluation, are the requirements the same for parentally-placed private school children as for other children who have been evaluated under Part B?

Answer: As with public school children, following the initial evaluation, an eligibility determination must be made by a group of qualified professionals and the child's parents, and this group must determine whether the child is a child with a disability as defined in Part B of the Act. 34 CFR §300.534(a)(1). The public agency must provide the parent a copy of the evaluation report and the documentation of the eligibility determination. 34 CFR §300.534(a)(2). In making the eligibility and placement determination, that is, in determining whether the child is a child with a disability and what the child's educational needs are, the public agency must draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, and ensure that information obtained from all of those sources is documented and carefully considered. 34 CFR §300.535(a).

Question 8: Following the initial determination that a parentally-placed private school child is an eligible child with a disability under Part B, must the public agency develop an IEP for the child?

Answer: If a determination is made that the child needs special education and related services, the general rule in 34 CFR §300.535(b) is that an IEP must be developed for the child in accordance with 34 CFR §§300.340-300.350, with one important exception. If the parents make clear their intention to enroll their child at a private school and that they are not interested in a public program or placement for their child, the public agency need not develop an IEP for the child. If the parents choose not to accept the public agency's offer to make FAPE available to their child, the public agency still must include the child in its eligible population of parentally-placed private school children with disabilities whose needs must be considered and addressed in accordance with 34 CFR §§300.450-300.462 of the Part B regulations.

Question 9: Are public agencies required to conduct periodic reevaluations of parentally-placed private school children with disabilities, and if so, of which parentally-placed private school children?

Answer: Yes. The requirements for reevaluations that are applicable to children with disabilities served at public agency programs or at public agency placements at private schools apply equally to parentally-placed private school children with disabilities. Part B requires public agencies to conduct reevaluations of a child with a disability, if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation, but at least once every three years. Before additional assessments are conducted, parents must give informed consent. 34 CFR §300.536.

Question 10: Can expenditures for reevaluations be considered in determining whether a public agency has met the expenditure requirements for services for parentally-placed private school children with disabilities?

Answer: No. A reevaluation, as a part of child find, must be conducted at no cost to parents, and expenditures for reevaluations may not be considered in determining whether an LEA has met the requirement at 34 CFR §300.453(a) regarding expenditures for services for parentally-placed private school children with disabilities. 34 CFR §300.453(c). The three-year reevaluation requirement applies to all eligible parentally-placed private school children with disabilities, even to those parentally-placed private school children with disabilities who are not currently receiving special education or related services from a public agency in connection with a parental private school placement. It is essential for public agencies to ensure that required reevaluations of all parentally-placed private school children with disabilities are conducted because they provide current data for use in the annual count of the total number of eligible parentally-placed children with disabilities residing in the LEA's jurisdiction. This annual count of eligible parentally-placed private school children is used in calculating the proportionate share of funds that must be expended on services for this population of children.

Question 11: Which LEA is responsible for child find and in meeting requirements for reevaluation if the private school the child attends is located outside of the LEA of the child's parents' residence?

Answer: SEAs and, consistent with State policy, LEAs, are responsible for ongoing efforts to locate, identify, and evaluate all children residing in the State who are suspected of having disabilities under Part B, so that FAPE is made available to all eligible children. 34 CFR §§300.121, 300.125, and 300.220. Generally, as a matter of State law, children are considered to reside in the home of their parents even if they physically do not live there. This would mean that if a child attends a private school located in an LEA (either in the same State or in another State) other than the LEA in which the child's parents reside, the LEA in which the child's parents reside generally would be responsible for child find, as well as ensuring that required reevaluations are conducted, unless the State assigns that responsibility to another entity. An LEA has flexibility as to how it ensures these responsibilities are met. For example, it may assume the responsibility itself, contract with another public agency, or make other arrangements. If the LEA through child find identifies a child as a child with a disability, and is not the entity responsible for child find, that LEA should notify the resident LEA of the child's parents so that required evaluations can occur.

Question 12: Do parents who disagree with a public agency's child find determination with respect to their parentally-placed private school child have any recourse?

Answer: Yes. Parents may use the Act's due process procedures at §§300.504-300.515 regarding issues related to the identification and evaluation of children under Part B. 34 CFR §300.457(b). This would include disputes regarding child find, including individual evaluations, of children residing in the LEA's jurisdiction whose parents choose to enroll them in private schools. For example, disagreements between parents and school districts involving the child's eligibility for special education and related services, an LEA's refusal to conduct an evaluation or reevaluation of an individual parentally-placed private school child, or an LEA's refusal to conduct a requested evaluation or reevaluation of an individual parentally-placed private school child within a reasonable period of time, are all issues that could be raised in a due process hearing. In addition, an organization or individual may file a signed written complaint in accordance with the State complaint procedures at 34 CFR §§300.660-300.662 of the Part B regulations, alleging that an SEA or LEA has violated the applicable child find requirement, including individual evaluation and reevaluation requirements.

Question 13: If parents reside in LEA A and enroll their child with a disability at a private school located in LEA B, which LEA is responsible for locating and evaluating that child, including that child in its annual count of eligible parentally-placed private school children with disabilities that is conducted for determining the expenditure requirement, and for determining whether the child should receive services under Part B?

Answer: The LEA of the parent's residence generally would be responsible for child find, unless the State assigns that responsibility to some other entity. 34 CFR §§300.125 and 300.220. If the non-resident LEA identifies a child as a child suspected of having a disability, the non-resident LEA should notify the LEA of the parent's residence so that appropriate evaluations can occur.

The LEA in which the child's parent's reside would also be responsible for including the child in the count of eligible parentally-placed private school children with disabilities, regardless of whether the child has been designated to receive services from that LEA. 34 CFR §300.453. Through consultation conducted in accordance with 34 CFR §300.454, the LEA of the parent's residence must consider the needs of parentally-placed private school children with disabilities residing in the agency's jurisdiction, even though those students have been enrolled by their parents in private schools located outside of the district's boundaries. The LEA of the parent's residence, however, after consultation with representatives of parentally-placed private school children, could elect not to serve those children in light of the available funds that must be expended on services for this population of children.

II. Annual Expenditures for Parentally-placed Private School Children with Disabilities

Question 14: How is the proportionate share for expenditures for services for parentally-placed private school children with disabilities calculated?

Answer: IDEA '97 confirms the Department's longstanding interpretation that each LEA must expend, during the grant period, on the provision of special education and related services for the parentally-placed private school children with disabilities residing in the LEA's jurisdiction an amount that is equal to--

(1) a proportionate share of the LEA's subgrant under section 611(g) of the Act for children with disabilities aged 3 through 21. This is an amount that is the same proportion of the LEA's total subgrant under section 611(g) of the Act as the number of parentally-placed private school children with disabilities aged 3 through 21 residing in the LEA's jurisdiction is to the total number of children with disabilities in the LEA's jurisdiction aged 3 through 21; and

(2) a proportionate share of the LEA's subgrant under section 619(g) of the Act for children with disabilities aged 3 through 5. This is an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the total number of parentally-placed private school children with disabilities aged 3 through 5 residing in the LEA's jurisdiction is to the total number of children with disabilities in the LEA's jurisdiction aged 3 through 5.
20 U.S.C. §1412(a)(10)(A)(i)(I); 34 CFR §300.453(a).

Consistent with this statutory requirement and the final Part B regulation implementing this requirement, annual expenditures for parentally-placed private school children with disabilities are calculated based on the total number of children with disabilities residing in the LEA's jurisdiction eligible to receive special education and related services under Part B, as compared with the total number of eligible parentally-placed private school children with disabilities residing in the LEA's jurisdiction. 34 CFR §300.453(a). This ratio is used to determine the proportion of the LEA's total Part B subgrants under section 611(g) for children aged 3 through 21, and under section 619(g) for children aged 3 through 5, that is to be expended on services for parentally-placed private school children with disabilities residing in the LEA's jurisdiction.

The following is an example of how the proportionate share is calculated:

Number of eligible children in public schools = 300
Number of eligible children in private school = 20
Total number of eligible children residing in the jurisdiction of the LEA = 320

The number of children served was:

300 public school children + 5 private school children = 305

Federal flow-through funds to School District is $152,500

Using this formula,

> there are 20 eligible parentally-placed private school children within a total number of 320 eligible public and private school children. The number of eligible parentally-placed private school children (20) divided by the total number of eligible public and private school children (320) indicates that 6.25 percent of the LEA's subgrant, or $9,531.25, must be spent for the group of parentally-placed children residing in the LEA and placed by their parents in private schools.

A graphic representation of the above description on how the proportionate share is calculated is provided in Attachment 1.

Question 15: Is the proportionate share based on the number of children with disabilities receiving special education or related services in accordance with a services plan, or on the total number of eligible private school children with disabilities residing in the LEA's jurisdiction?

Answer: The proportionate share is determined based on the total number of eligible parentally-placed private school children with disabilities residing in the LEA's jurisdiction, and is not limited to the number of those children receiving special education or related services in accordance with a services plan.

Question 16: When must LEAs conduct the annual count of *eligible* parentally-placed private school children with disabilities residing in their jurisdiction (the Count required at §300.453)?

Answer: SEAs must decide, on a Statewide basis, (either December 1 or the last Friday in October) the date on which their LEAs will conduct the annual count of the total number of eligible parentally-placed children with disabilities. LEAs and SEAs are already counting children with disabilities who are receiving special education and related services either on December 1 or the last Friday in October of each year, and the SEA must conduct the annual count of eligible parentally-placed private school children with disabilities on the same date. Using the same date on a Statewide basis should reduce the amount of double counting of private school children with disabilities who move from one location to another, and should give States the same flexibility they have with regard to counting other children with disabilities who are receiving services under Part B of the Act.

Question 17: In meeting the requirement to expend a proportionate share of available Federal funds on services for parentally-placed private school children with disabilities residing in their jurisdiction, may LEAs use funds other than Federal funds?

Answer: Yes. Section 612(a)(10)(A)(i) describes the minimum amount that must be spent on services for parentally-placed private school children with disabilities and does not specify that only Federal funds can be used to satisfy this obligation. Thus, if a State or LEA uses other funds other than Part B funds to provide special education and related services to parentally-placed private school children with disabilities, those funds can be considered in satisfying the expenditure requirements of 20 U.S.C. §1412(a)(10)(A)(i)(I) and 34 CFR §300.453, so long as the services are provided in accordance with the other provisions of §§300.452-300.462. See Analysis of Comments and Changes, Attachment 1 to the final regulations, 64 Fed. Reg. at 12603 (Mar. 12, 1999).

Question 18: May State or local funds be used to provide services to parentally-placed private school children with disabilities in excess of the services provided for this population of children with the proportionate share of available funds?

Answer: Yes. SEAs and LEAs are not prohibited from providing services to parentally-placed private school children with disabilities in excess of those provided with the proportionate share of Part B funds, if doing so is consistent with State law or local policy. 34 CFR §300.453(d) and Analysis of Comments and Changes, published as Attachment 1 to the final regulations, 64 Fed. Reg. at 12603 (Mar. 12, 1999).

Question 19: How are Part B funds distributed now that the permanent funding formula is in effect?

Answer: Until the appropriation under section 611(j) of the Act exceeds $4,924,672,200 under the funding formula applicable to the Grants to States program, authorized by section 611(g) of IDEA, funds were allocated to States under the interim formula. 34 CFR §300.703(b). Under the interim formula, funds were allocated to States, and through them to LEAs, based on an annual count of children with disabilities receiving special education and related services on the count date, and, in the case of parentally-placed private school children with disabilities, those receiving special education or related services on the count date. Now that the appropriation under section 611(j) of the Act exceeds $4,924,672,200, funds will be allocated to States, and through them to LEAs, under the permanent formula. Thus, the permanent formula will be used to distribute Part B Grants to States funds to States on or about July 1, 2000, and allocations will no longer be based on an annual count of children receiving special education and related services on the count date. The permanent formula previously has taken effect for the Preschool Grants Program. Under the permanent formula, it will still be important for SEAs and LEAs to maintain accurate data about the number of parentally-placed private school children with disabilities receiving special education or related services and the total number of eligible parentally-placed private school children with disabilities.

The State allocation under the permanent formula to each LEA that has established its eligibility under section 613 of the Act is the total of three amounts:

- a base payment, that is, the amount the agency would have received for the fiscal year prior to the first fiscal year that the appropriation under section 611(j) of the Act exceeds $4,924,672,200, had the State allocated 75 percent of its grant to LEAs. 34 CFR §300.712(a);

- the population payment which consists of 85 percent of any remaining funds distributed on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within each agency's jurisdiction. 34 CFR §300.712(b)(3)(i); and
- 15 percent of any remaining funds allocated to eligible LEAs in accordance with their relative numbers of children living in poverty, as determined by the SEA. 34 CFR §300.712(b)(3)(ii); 34 CFR §300.712(b)(3).

Therefore, funds generated by LEAs for FFY 1999 for parentally-placed private school children with disabilities who were receiving special education or related services under 34 CFR §§300.452-300.462 that meet State standards on the count date were included in calculating an LEA's base payment under the permanent formula. 34 CFR 300.453 (a)(3)

Question 20: Under the permanent formula, will it still be necessary to conduct an annual count of parentally-placed private school children with disabilities?

Answer: Yes. The count still will be required under 34 CFR §300.453 of the part B regulations for purposes of determining the total number of eligible parentally-placed private school children with disabilities residing in the LEA's jurisdiction. This information is required for purposes of calculating the proportionate share that an LEA is required to expend on an annual basis for the provision of special education and related services for its population of parentally-placed private school children with disabilities. In addition, the count of children served that is conducted under 34 CFR §300.751 will still be required.

Question 21: In the permanent formula, 85 percent of funds above the base payment are distributed on the basis of the "relative numbers of children *enrolled* in public and private elementary and secondary schools within each agency's jurisdiction." What does this mean since some parentally-placed private school children *live* in the jurisdiction of the LEA but are *enrolled* in a private school *outside* of the LEA's jurisdiction?

Answer: In allocating 85 percent of any remaining funds to LEAs based on the relative numbers of children enrolled in public and private elementary and secondary schools within each agency's jurisdiction, States must apply on a uniform basis across all LEAs the best data that are available to them. 34 CFR §300.712(b)(3)(iii). It is within the State's discretion to determine whether the LEA where the private school is located or the LEA of the parent's residence should include the child in its private school enrollment count.

A State could determine, for example, that a child whose parents reside in LEA A and attends a private school located in the boundaries of LEA B is enrolled in LEA B in calculating the percentage of funds allocated to an LEA based on the relative numbers of children enrolled in public school and private elementary and secondary schools in the LEA's jurisdiction. While States have flexibility in this area, a uniform rule must be applied on a Statewide basis. These children would then need to be in the group of parentally-placed children with disabilities whose needs must be considered by the LEA in determining which parentally-placed private school children with disabilities will be served and the types and amounts of services to be provided to eligible children.

III. Provision of Services

Question 22: Are there any particular kinds of services, and specified amounts of services, to be provided to parentally-placed private school children with disabilities under Part B?

Answer: No. No parentally-placed private school child with a disability has an individual right to special education and related services under Part B. 34 CFR §300.454(a). Therefore, the responsible public agency is not required to provide a parentally-placed private school disabled child with some or all of the special education and related services that the child would receive if enrolled in a public school. This reflects the Department's longstanding interpretation of the limitations of SEAs' and LEAs' statutory obligations to make services available to the population of eligible parentally-placed private school children with disabilities, in light of the limited amount of funds that LEAs must expend on services for these children.

Question 23: How are decisions made about the services that are to be provided to parentally-placed private school children with disabilities, including the type and location of such services, in light of the limited amount of funds that must be expended annually on services for this population of children?

Answer: Each LEA must consult, in a timely and meaningful way, with appropriate representatives of parentally-placed private school children with disabilities, in light of the minimum amount of Part B funds that must be expended for services for this population of children, on the number of parentally-placed private school children with disabilities, the needs of those children, and their location. Through this consultation process, decisions are made about which parentally-placed private school children with disabilities will receive services, what services will be provided, how and where the services will be provided, including the timing and location of the services provided, and how the services provided will be evaluated. Each LEA must give appropriate representatives of parentally-placed private school children with disabilities a genuine opportunity to express their views regarding each matter that is the subject of the consultation process. However, the LEA makes the final decision about which eligible children will receive services, the services to be provided to eligible parentally-placed private school children with disabilities, and where the services will be provided. 34 CFR §300.454(b)(1), (2), and (4).

Question 24: When must consultation about services occur?

Answer: Consultation about the provision of services must occur, in a timely and meaningful way, before the LEA makes any decision that affects the opportunities of parentally-placed private school children with disabilities to participate in services provided under Part B requirements to those children. 34 CFR §300.454(b)(3). The needs of parentally-placed private school children with disabilities, their number and location, may vary over time, depending on the circumstances in a particular LEA in a particular year. As there is no specific schedule for consultation with appropriate representatives of parentally-placed private school children with disabilities, States and LEAs are able to determine the appropriate period between consultations based on circumstances in their jurisdictions. Many jurisdictions have found that it works well when consultation takes place, at a minimum, to review the child find process, discuss the child count, and plan the services being offered prior to each school year. The regulations do not include specific requirements regarding matters such as public notice of meetings, public transcripts of meetings, explanations of amounts and frequency of services provided, or explanations of refusals to provide services, changes in the manner in which services are provided, or the manner in which funds are allocated, leaving these issues to State and local authorities.

Question 25: Which individuals are appropriate representatives of parentally-placed private school children with disabilities? What about parents of such children?

Answer: Part B does not specify which individuals are "appropriate representatives" of parentally-placed private school children with disabilities. However, since one aspect of consultation is intended to discuss the needs of children with disabilities placed in private schools by their parents, it would be reasonable for parents to be considered "appropriate representatives" of such children. Other "appropriate representatives" of parentally-placed private school children might be teachers, principals, and, in the case of private school systems, central office administrators responsible for federal program services and/or special education. Whether parents of home-schooled children or other representatives of home-schooled children should be considered "appropriate representatives" of parentally-placed private school children with disabilities depends on whether under State law, home schooling is regarded as parental placement at private school.

Question 26: Is it possible for an LEA, through consultation with appropriate representatives of parentally-placed private school children with disabilities, to provide only certain direct services to those parentally-placed private school children with disabilities designated to receive services?

Answer: Yes. Based on relevant input from consultation, and in light of available funding, it could be reasonable for an LEA to conclude that providing direct services would ensure that those parentally-placed private school children with disabilities selected to receive services will derive a benefit from the services offered. For example, an LEA could determine through consultation that providing direct services for fewer children would be more beneficial in addressing the needs of its parentally-placed private school children with disabilities than providing consultative services, instructional materials, equipment, or teacher training.

Question 27: Is it possible for an LEA, through consultation with appropriate representatives of parentally-placed private school children with disabilities, to determine that it will provide no direct services to its eligible parentally-placed private school children with disabilities, but that instead, the LEA will provide consultative services, or equipment and teacher training?

Answer: Yes. Through the consultation described above, determinations must be made about how the available amount of funds can be utilized so that the parentally-placed private school children with disabilities designated to receive services can benefit from the services offered.

The regulations specify that the LEA makes the final decision with respect to services to be provided to eligible parentally-placed private school children with disabilities, (34 CFR §300.454(b)(4)), based in part on input provided through the consultation process by appropriate representatives of parentally-placed private school children with disabilities, (34 CFR §300.454(b)(3)). Depending on local circumstances and the amount of funds available for expenditures for this population of children, it could be reasonable for an LEA to conclude that, in lieu of direct services, its parentally-placed private school children with disabilities should be provided with consultative services, equipment and materials, and that training will be provided for private school teachers and other private school personnel.

If consultative services are provided to a private school teacher, as a means of providing special education and related services to a particular private school child with a disability, there may be situations where that teacher uses the acquired skills to provide education to other children as well. However, whatever benefit those other children receive is incidental to the publicly-funded services. As is true if direct services are provided, LEAs that elect to provide consultative services to their parentally-placed private school children with disabilities also must develop a services plan for each child receiving those services in accordance with 34 CFR §300.455(b).

Question 28: How would a services plan be developed for a parentally-placed private school child with a disability receiving consultative services?

Answer: Any parentally-placed private school child with a disability whom an LEA elects to serve must have a services plan. 34 CFR §300.454(c). Each child's services plan must contain, among other elements, a statement of the special education, related services, and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child to advance appropriately toward attaining his or her annual goals, to be involved and progress in the general curriculum, and to participate in extracurricular and other nonacademic activities. Consultation between a regular education teacher and a special education teacher could allow the regular educator to provide special education, which consists of specially designed instruction that meets State education standards and is individually-designed for an individual student, or a related service, if that service is required to assist a child with a disability to benefit from special education. Consultative services also could be considered a supplementary aid or service if provided to facilitate a student's education in regular classes alongside his or her nondisabled peers (see 34 CFR §300.28) or a support for school personnel, if provided to enable the child to advance appropriately toward attaining the annual goals and to be involved and progress in the general curriculum.

Question 29: Could an LEA, through consultation with appropriate representatives of parentally-placed private school children with disabilities, decide to provide services that address some of the needs of parentally-placed private school children with disabilities?

Answer: Yes. As noted previously, an LEA must conduct child find for all children enrolled in private schools by their parents who are suspected of having disabilities, regardless of the category of their suspected disability. However, once determined eligible, an LEA must, through the consultation process previously described, determine, among other matters, which parentally-placed private school children with disabilities will receive services, what services will be provided, and the manner in which those parentally-placed private school children with disabilities selected to receive services will be served. An LEA could properly conclude that it will provide only certain services which may mean that needs commonly associated with one or more disability categories are not met, and that only some of the needs of a child who is served are met. An LEA could decide, through consultation, not to serve any parentally-placed private school children with disabilities who are enrolled at one or more private schools, but instead to limit the services the LEA is offering with the available amount of funds to parentally-placed private school children with disabilities enrolled at only one private school.

Question 30: Is there any requirement for parentally-placed private school children with disabilities to have IEPs?

Answer: No. Current regulations provide that each parentally-placed private school child with a disability who has been designated to receive services from the LEA must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the consultation process, that it will make available to its parentally-placed private school children with disabilities. 34 CFR §300.455(b)(1).

Question 31: Must services plans be in place for all eligible parentally-placed private school children with disabilities residing in the LEA's jurisdiction?

Answer: No. The Part B regulations do not require public agencies to develop services plans for each and every parentally-placed private school child with a disability residing in the LEA's jurisdiction, regardless of whether that child receives services from the LEA. Services plans are required only for those parentally-placed private school children with disabilities whom the LEA has elected to serve, and must reflect only the services that the LEA has determined it will provide to the particular parentally-placed child with a disability.

Question 32: How must a services plan be developed?

Answer: A services plan must be developed, reviewed, and revised consistent with 34 CFR §§300.342-300.346 of the Part B regulations. The LEA is responsible for initiating and conducting meetings to develop a services plan in accordance with these requirements. The LEA must ensure that a representative of the religious or other private school attends each services plan meeting, and if the representative cannot attend, the LEA must use other methods to ensure participation by the private school, including individual or conference telephone calls.

Question 33: What must a services plan contain?

Answer: As noted above, a services plan, which must reflect only the services offered to a parentally-placed private school child with a disability designated to receive services, must, to the extent appropriate, meet the IEP content requirements in 34 CFR §300.347. Since students with disabilities who are entitled to FAPE must receive the full range of services under Part B, their IEPs generally will be more comprehensive than the more limited services plans developed and implemented for those parentally-placed private school children with disabilities designated to receive services from an LEA. The requirement that a services plan meet the requirements of an IEP, to the extent appropriate, will ensure that the services actually provided to a parentally-placed private school child with a disability will meaningfully address the child's individual needs.

Example: An LEA has elected to serve an individual parentally-placed private school child with a disability who has speech needs through the provision of speech-language pathology services.

The child's services plan would specify the present levels of educational performance in this area, and how the child's speech-language disability affects the child's ability to be involved and progress in the general curriculum. Measurable annual goals for this child would be specific to the speech-language pathology services to be provided, and would enhance the child's ability to be involved in and progress in the general curriculum. The services plan would also specify the amount, frequency, location, and duration of the services to be provided in accordance with 34 CFR §300.347(a)(6) and how the child's parents will be informed of the child's progress, in accordance with 34 CFR §300.347(a)(7). Whether other content requirements at 34 CFR §300.347 would have to be addressed in a services plan would have to be determined on a case-by-case basis, depending on the services that are provided.

Question 34: Are there any remedies available to parents who dispute the services offered or provided to their child in connection with the parental private school placement?

Answer: Since eligible parentally-placed private school children with disabilities do not have an individual entitlement to services under Part B, the due process procedures in Part B of the Act do not apply to complaints that an LEA has failed to meet applicable requirements for serving these children, including an LEA's alleged failure to provide the services specified on a child's services plan. However, an organization or individual may file a signed written complaint under the applicable State complaint procedures at 34 CFR §§300.660-300.662 alleging that an SEA or LEA has failed to meet the requirements in 34 CFR §§300.451-300.462, such as failure to properly conduct the consultation process. On the other hand, as is true with respect to due process complaints, a State complaint alleging that an LEA has failed to offer services to a particular parentally-placed private school child with a disability would not violate Part B, since no parentally-placed private school child with a disability has an individual entitlement to services under Part B. 34 CFR §300.454(a).

IV. Location of Services

Question 35: How are decisions made about the location of services that the LEA has selected through consultation to offer to its parentally-placed private school children with disabilities?

Answer: As is true regarding the services that an LEA has selected to provide its parentally-placed private school children with disabilities designated to receive services, the location of services also is a matter that is determined through the process of consultation between LEA officials and appropriate representatives of parentally-placed private school children with disabilities. Services offered to parentally-placed private school children with disabilities may be provided on-site at a child's private school, including a religious school, to the extent consistent with law, or at another location. The phrase "consistent with law" is statutory, and means that the provision of services on the premises of a private school takes place in a manner that would not violate the Establishment Clause of the First Amendment to the U.S. Constitution and would not be inconsistent with applicable State constitutions or laws. The provision of services at private school sites will help to minimize the amounts and time spent on transportation. In addition, this should cause the least disruption in the children's education. Since some States do not allow services to be provided at the private school site, LEAs may wish to seek legal advice before making service location determinations.

Question 36: If transportation would be a related service for a child with a disability, had the child been served directly in a public agency program or a public agency placement at a private school, would transportation automatically become a related service for a parentally-placed private school child with a disability who is designated to receive services from the LEA?

Answer: Regardless of whether transportation would be a related service for a child with a disability, transportation may be necessary for an individual child. If services are offered at a site separate from the child's private school, transportation may be necessary to get the child to and from that other site. Failure to provide transportation could effectively deny the child an opportunity to benefit from the services that the LEA has determined through consultation to offer its parentally-placed private school children with disabilities. In this situation, transportation is not a related service, as defined at 34 CFR §300.24(b)(15), but it still is a necessary means of making the services that are offered accessible to the child.

Question 37: Could an LEA refuse to provide transportation to parentally-placed private school children with disabilities who reside in its jurisdiction but who attend private schools located outside of the LEA's boundaries?

Answer: LEAs are encouraged to work in consultation with appropriate representatives of parentally-placed private school children with disabilities to ensure that services are provided at sites that will not require significant transportation costs. Therefore, it may be reasonable for an LEA, through the consultation process, to elect not to provide services to a child who attends a private school outside the district. However, if any child is selected for services and the service is provided away from the school the child attends, the child must be provided transportation to the service if it is necessary for the child to benefit from or participate in the service. Therefore, it may not be unreasonable for an LEA to elect not to provide services to parentally-placed private school children with disabilities who reside in the LEA's jurisdiction but who attend private schools located outside of the LEA's boundaries because of the increased costs involved.

V. Miscellaneous

Question 38: Are the requirements for children with disabilities aged 3 through 5 who are placed by their parents at private preschool programs, including home day care programs, the same as the requirements for children with disabilities parentally-placed at private elementary and secondary schools?

Answer: Yes. The Department interprets the requirements at 20 U.S.C. §1412(a)(10)(A) and 34 CFR §§300.450-300.462 to be fully applicable to children with disabilities aged 3 through 5 who have been placed by their parents at private schools. Many preschool-aged children also attend a broad range of child care settings. Whether a private day care program conducted in the home or otherwise outside of the administrative control of a public agency can be considered a private preschool depends on the State definition of "private school." That a day care program is licensed under State health and safety and other day care requirements does not make the day care program a "private school" unless the State definition so specifies.

Assuming a child of preschool age is enrolled by his or her parents at a private preschool that satisfies the State definition, the same procedures that govern children with disabilities parentally-placed in private elementary and secondary schools in the State would be applicable. The child would have to be evaluated in accordance with the Part B requirements at 34 CFR §§300.532-300.533, subject to informed parental consent, and determined eligible in accordance with 34 CFR §300.535. Once determined eligible, the affected LEA would offer to make FAPE available at a public agency program or a public agency placement at a private school. In some situations, if the parents were interested in having their child participate in the publicly available services, the public agency could determine that the services specified in the IEP developed for the child could be appropriately implemented in the day care setting selected by the parent at no cost to the parents.

If the parents choose not to accept the public program or placement offered, and if the parents enroll the child in a private preschool recognized under the State's definition, the public agency must include the child in the group of parentally-placed private school children with disabilities whose needs must be considered through the consultation process at 34 CFR §300.454(a)-(b) described earlier.

A parentally-placed private preschool-aged child with a disability who attends a program recognized under the State definition of private school and is designated to receive services from a public agency must have a services plan in accordance with 34 CFR §300.454(c) and §300.455 with respect to the services offered. As is true for services offered to parentally-placed private school children with disabilities in other age groups, services offered to preschool-aged children with disabilities may be provided on the premises of the private program, including a religious school, to the extent consistent with law. 34 CFR §300.456(a). Children in that age group who attend programs recognized under the State definition of private school designated to receive services can be served through the proportionate share of available section 611 and 619 funds that must be expended on services for this population of children. The LEA's annual count of parentally-placed private school children with disabilities residing in the LEA's jurisdiction conducted under 34 CFR §300.453(b) must include all children with disabilities who attend private schools recognized under the State definition. However, children with disabilities parentally-placed at private programs that do not meet the State definition of private school cannot receive services under Part B and cannot be included in the annual count of parentally-placed private school children with disabilities aged 3 through 5.

Question 39: Are children with disabilities placed by their parents at private schools entitled to a free appropriate public education at the private school?

Answer: No. Children with disabilities placed by their parents at private schools are not entitled to a free appropriate public education (FAPE) in connection with their parental private school placements. States receiving funds under Part B of IDEA, as a condition of receipt of those funds, must make FAPE available to all children with disabilities residing in the State in mandatory age ranges. 20 U.S.C. §1412(a)(1)(A); 34 CFR §300.121. States satisfy their FAPE obligation to their resident parentally-placed private school children with disabilities by offering them FAPE either at a public agency or at a public agency placement at a private school. However, LEAs generally must consider and address the needs of eligible parentally-placed private school children with disabilities residing in their jurisdiction.

Question 40: If parents choose to enroll their child with a disability at a private school because of their preference for the private school, are there any circumstances in which a public agency would be required to make FAPE available to such a child in the future?

Answer: The public agency must include these children in its eligible population of parentally-placed private school children with disabilities whose needs must be considered in accordance with 34 CFR §§300.450-300.462 of the Part B regulations.

In addition, as is true for other children with disabilities, the public agency must evaluate every parentally-placed private school child with a disability at least every three years in accordance with the requirements of 34 CFR §§300.532-300.533 to determine a child's continued eligibility for special education and related services. If the parents withdraw their child with a disability from the private school placement that they have selected and return their child to the public school, the public agency again must make FAPE available to the child either in the public agency or a public agency placement at another public school or at a private school.

Question 41: Are there any particular qualifications that are applicable to personnel who provide special education or related services to those parentally-placed private school children with disabilities LEAs elect to serve?

Answer: Yes. Services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing such services in public schools. Funds awarded under Part B, sections 611 and 619, may be used to make public school personnel available in other than public facilities to the extent necessary to provide services to parentally-placed private school children with disabilities under Part B, if those services are not normally provided by the private school. In addition, if private school personnel provide the services that the LEA has determined it will provide to its parentally-placed private school children with disabilities, the private school personnel must meet the same standards as personnel providing services in public schools, must perform the services outside of his or her regular hours of duty, and must perform the service under public supervision and control. 34 CFR §§300.455(a) and 300.460-300.461.

Question 42: How could a State educational agency monitor to ensure that parentally-placed private school children with disabilities are being served in a manner that complies with Part B?

Answer: Each SEA must exercise general supervision over all education programs for children with disabilities administered by public agencies in the State and must ensure that such programs meet State education standards and Part B requirements. Accordingly, an SEA is required to have a method of monitoring its public agencies to ensure that they are meeting the statutory and regulatory requirements applicable to services for parentally-placed private school children with disabilities. An SEA also would be required to ensure that those parentally-placed private school children with disabilities whom the LEA has elected to serve are receiving special education or related services in accordance with a services plan.

Question 43: How can representatives of parentally-placed private school children with disabilities, including parents of these children, have input into OSEP's reviews of States as part of its continuing improvement monitoring process?

Answer: In monitoring each State, OSEP conducts extensive validation planning activities to help focus its data collection on those issues that are most critical to improving compliance and results for students with disabilities in the State. The validation planning process includes a number of public input forums in which individuals and groups, including parents of parentally-placed private school children with disabilities and other representatives of these children, can provide input regarding the issues that they believe should be a focus of OSEP's data collection in the State. Further, as part of the monitoring process, each State establishes a steering committee that helps the SEA conduct a self-assessment of the State's services for children with disabilities and provides input to OSEP. This committee may, at the State's discretion, include representatives of parentally-placed private school children with disabilities. Further, each State advisory panel on the education of children with disabilities must include representatives of parentally-placed private school children with disabilities. Among the functions of this panel are to advise the SEA in developing corrective action plans to address findings identified in Federal monitoring reports under Part B of the Act. Organizations or individuals that have specific questions or concerns about services for parentally-placed private school children with disabilities in their State should contact their local school district, State Department of Education special education division, or the OSEP State contact for Part B in the Monitoring and State Improvement Planning Division. A list of the OSEP State contacts can be found on the OSEP web page at http://www.ed.gov/offices/OSERS/OSEP/state_contact_list.html

Question 44: Is home school considered a private school? What if a child is below a State's compulsory school age and receiving services from an unapproved or uncertified home day care or other location strictly for child care purposes?

Answer: Whether home schools are "private schools," including home day care, is determined by the State. If the State recognizes home schools or home day care as private schools, children with disabilities in those home schools or home day care must be treated in the same way as other parentally-placed private school children with disabilities. If the State does not recognize home schools or home day care as private schools, children with disabilities who are home-schooled or in home day care are still covered by the child find obligations of SEAs and LEAs, and these agencies must ensure that home-schooled children and those in home day care who have disabilities are located, identified, and evaluated, and that FAPE is available if their parents choose to enroll them in public schools.

Question 45: If under State law, dual enrollment of a child in both a public agency program and a private school is required in order for the child to receive special education and related services from a public agency in connection with a parental private school placement, does the parentally-placed private school child with a disability have a right to FAPE?

Answer: The Part B regulations make clear that no parentally-placed private school child with a disability has an individual entitlement to services. 34 CFR §300.454(a). Whether dual enrollment alters the rights of a parentally-placed private school child with a disability under State law is a State matter. There is nothing in Part B that would prohibit a State from requiring dual enrollment as a condition of eligibility of a parentally-placed private school child with a disability for services from a public agency.

Attachment 1
Proportionate Share Calculation for Parentally-Placed Private School Children with Disabilities

FOR FLINTSTONE SCHOOL DISTRICT:

# of eligible children in public schools	=	300
# of eligible children in private schools	=	20
Total # of eligible children	=	***320***

AT DECEMBER 1 CHILD COUNT:

# of children served in public schools	=	300
# of children served in private schools	=	5
Total # of public & private children served	=	***305***

Note: 305 is the number turned in to OSEP for children served with IEP or service plan.

FEDERAL FLOW-THROUGH FUNDS TO FLINTSTONE SCHOOL DISTRICT:

Total allocation to Flintstone = ***$152,500***

FORMULA FOR CALCULATING PROPORTIONATE SHARE:

$$\boxed{\begin{array}{c}\text{Total}\\ \text{Proportionate}\\ \text{Share For}\\ \text{Private School}\\ \text{Children}\end{array}} = \frac{X}{\boxed{\begin{array}{c}\text{Total Flow-Through}\\ \text{Allocation}\end{array}}} : \frac{\boxed{\begin{array}{c}\text{Eligible}\\ \text{Private School}\\ \text{Children}\end{array}}}{\boxed{\begin{array}{c}\text{Total Eligible}\\ \text{Public \& Private}\\ \text{School Children}\end{array}}}$$

Note: Proportionate share for parentally-placed private school children is based on total children eligible, not children served.

FLINTSTONE SCHOOL DISTRICT OBLIGATION:

$$\frac{X}{\$152{,}500} : \frac{20}{320}$$

X = ***$9,531.25***

(This amount must be spent for the group of parentally-placed children in private schools)

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